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[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

RECEIVED

MAR 17 2022 *my*

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Mattie Twynette Lomax

Plaintiff(s),

VS.

CITY OF CHICAGO, a MUNICIPAL CORP.

LANDON HOWARD/ CLAIMS SPECIALIST

Defendant(s).

Case No.

1:22-cv-01404

Judge Manish S. Shah

Magistrate Judge Maria Valdez

RANDOM

COMPLAINT FOR VIOLATION OF CONSTITUTIONAL RIGHTS

This form complaint is designed to help you, as a pro se plaintiff, state your case in a clear manner. Please read the directions and the numbered paragraphs carefully. Some paragraphs may not apply to you. You may cross out paragraphs that do not apply to you. All references to “plaintiff” and “defendant” are stated in the singular but will apply to more than one plaintiff or defendant if that is the nature of the case.

1. This is a claim for violation of plaintiff's civil rights as protected by the Constitution and laws of the United States under 42 U.S.C. §§ 1983, 1985, and 1986.
2. The court has jurisdiction under 28 U.S.C. §§ 1343 and 1367.
3. Plaintiff's full name is **Mattie Twynette Lomax**

If there are additional plaintiffs, fill in the above information as to the first-named plaintiff and complete the information for each additional plaintiff on an extra sheet.

[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

4. Defendant, Landon Howard/ Claims Specialist, is
(name, badge number if known)
- ☒ an officer or official employed by the City of Chicago, Il Claims Unit;
(department or agency of government)
and still employed with in the City of Chicago or
- ☐ an individual not employed by a governmental entity.

If there are additional defendants, fill in the above information as to the first-named defendant and complete the information for each additional defendant on an extra sheet.

5. The municipality, township or county under whose authority defendant officer or official acted is a employee of the governmental entity. As to plaintiff's federal constitutional claims, the municipality, township or county is a defendant only if custom or policy allegations are made at paragraph 7 below.

6. On or about 10/12/2017, at approximately 11:00 ☐ a.m. ☐ p.m.
(month, day, year)
plaintiff was present in the municipality (or unincorporated area) of certified & U.S.
mail carrier letter to the plaintiff, in the County of Cook,
State of Illinois, at 9330 S. Wentworth Ave Uit 41, Chicago, IL 60620,
(identify location as precisely as possible)

when defendant violated plaintiff's civil rights as follows (***Place X in each box that applies***):

- ☐ arrested or seized plaintiff without probable cause to believe that plaintiff had committed, was committing or was about to commit a crime;
- ☐ searched plaintiff or his property without a warrant and without reasonable cause;
- ☐ used excessive force upon plaintiff;
- ☒ failed to intervene to protect plaintiff from violation of plaintiff's civil rights by one or more other defendants;
- ☐ failed to provide plaintiff with needed medical care;
- ☒ conspired together to violate one or more of plaintiff's civil rights;
- ☐ Other:

[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

7. Defendant officer or official acted pursuant to a custom or policy of defendant municipality, county or township, which custom or policy is the following: (*Leave blank if no custom or policy is alleged*): following custom in a iniury cause by the city personell, pursuant to (735 ILCS 5/2-1116) Premises Liability act Fault, means any act or omission that (1) is negligent, willful and wanton, or reckless, is a breach of contract with an express r imlied warranty

8. Plaintiff was charged with one or more crimes, specifically:

9. (*Place an X in the box that applies. If none applies, you may describe the criminal proceedings under "Other"*) The criminal proceedings

☒ are still pending.

☐ were terminated in favor of plaintiff in a manner indicating plaintiff was innocent.¹

☐ Plaintiff was found guilty of one or more charges because defendant deprived me of a fair trial as follows _____

☐ Other: _____

¹Examples of termination in favor of the plaintiff in a manner indicating plaintiff was innocent may include a judgment of not guilty, reversal of a conviction on direct appeal, expungement of the conviction, a voluntary dismissal (SOL) by the prosecutor, or a *nolle prosequi* order.

[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

10. Plaintiff further alleges as follows: ***(Describe what happened that you believe supports your claims. To the extent possible, be specific as to your own actions and the actions of each defendant.)***

It was of a conspiracy with in the claims unit to denied the plaintiff claim and no

investigation of her claim was never performment by Landon Howard/ claim specialis,

He just moved to a different location within the city of chicago.

11. Defendant acted knowingly, intentionally, willfully and maliciously.

12. As a result of defendant's conduct, plaintiff was injured as follows:

Plaintiff was injured by a fall on city property and as a result plaintiff have suffer pain

from the fall in which the City of Chicago claim , state it was open and obvious, so why

was it open in the first place?

13. Plaintiff asks that the case be tried by a jury. ☒ Yes ☐ No

[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

14. Plaintiff also claims violation of rights that may be protected by the laws of Illinois, such as false arrest, assault, battery, false imprisonment, malicious prosecution, conspiracy, and/or any other claim that may be supported by the allegations of this complaint.

WHEREFORE, plaintiff asks for the following relief:

- A. Damages to compensate for all bodily harm, emotional harm, pain and suffering, loss of income, loss of enjoyment of life, property damage and any other injuries inflicted by defendant;
- B. ☒ (Place X in box if you are seeking punitive damages.) Punitive damages against the individual defendant; and **Landon Howard**
- C. Such injunctive, declaratory, or other relief as may be appropriate, including attorney's fees and reasonable expenses as authorized by 42 U.S.C. § 1988.

Plaintiff's signature: _____

Plaintiff's name (*print clearly or type*): Mattie Twynette Lomax

Plaintiff's mailing address: P.O. Box 198366

City Chicago State IL ZIP 60619

Plaintiff's telephone number: (773) 412-9187.

Plaintiff's email address (*if you prefer to be contacted by email*): akalomax@gmail.com

15. Plaintiff has previously filed a case in this district. ☐ Yes ☐ No

If yes, please list the cases below.

Any additional plaintiffs must sign the complaint and provide the same information as the first plaintiff. An additional signature page may be added.

EXHIBITS ATTACHED TO THE CASE

P.O. Box Service Fee Notice**ENGLEWOOD****611 W 63RD ST, CHICAGO, IL 60621****(773) 224-1570**

WEBBATS BAT710B1

LOMAX MATTIE
PO BOX 21392
CHICAGO, IL 60621

*Received on
Sept 29, 2017*

Date of Notice: 08/30/2017
Box # 21392
6 Months: \$32.00
12 Months: \$64.00
Due Date: 09/30/2017

Dear LOMAX MATTIE:

This is a friendly reminder that your Post Office Box or Caller Service renewal fee is due. If you have already paid this fee, please disregard this notice and thank you for your continued business with the United States Postal Service. If you have not yet submitted your payment, please do so now.

New! At your location, at least one of the following enhanced services is available: Real Mail Notification (receive email or text when new mail is in your box), Street Addressing (allows private carrier package delivery) and Signature on File (easy pickup for some signature items). There is no extra charge for these enhancements. Visit your Post Office to sign up for these services today! These services do not apply to Caller Service and Group E Box customers.

For your convenience, you can sign up at www.usps.com/poboxes and renew or manage your PO Box online. You can use your credit card to make a one-time payment or sign up for automatic payments so you never miss a due date. You can also renew your PO Box at any one of our Self-Service Kiosks located at select Post Offices nationwide. Go to <http://www.usps.com/locator/welcome.htm> and look for Self-Service Kiosks to find a location near you.

As always, payments can be made at the Post Office or mailed to the attention of the Postmaster at the address indicated above. Please make checks or money orders payable to the US Postal Service and include your PO Box number and ZIP Code. If paying by mail, a receipt will be delivered to your PO Box.

NOTE: Caller Service can only be paid **in person or by mail**. Please be sure to include this notice with your remittance. Caller Service receipts will be provided at the caller service pickup window.

If your payment is not received by the due date, access to your PO Box will be blocked and caller services will be limited. If we have not received your payment by the 10th day after the due date, your PO Box service will be terminated, incoming mail will be returned to the sender, and, in addition to any unpaid monthly PO Box fees, you will be charged a handling fee to reopen your box. To avoid this inconvenience, we encourage you to renew on time.

As a reminder, your account information must be current. If your physical address or other pertinent information has changed since you applied for your PO Box, please ask a Retail Associate at your Post Office to update the filed copy of your PS Form 1093, *Application for Post Office Box Service*.

To update your information for Caller Service, you can ask a Retail Associate to update the PS 1093-C, *Application for Caller Service*.

You are a valued customer and we appreciate your business. Thank you,

POSTMASTER, CHICAGO

CHICAGO POLICE DEPARTMENT Incident Report

RD #: **RD #A459744**

ORIGINAL CASE INCIDENT REPORT

COMP HAS NO FURTHER INFO. COMP HAS A CONTUSION ON HER RIGHT KNEE AND HER LEFT SHOULDER. COMP WAS EXAMINED BY DR COLEMAN AT 9415 S WESTERN AVE. AND PRESCRIBED MEDS FOR PAIN. COMP REFUSED TO SIGN AND FEEL 10652

CLOSED NON-CRIMINAL

PERSONNEL NARRATIVE	IUCR: 5080 - Non-Criminal - Other Non-Criminal Persons	
	Occurrence Location: 6300 S Western Ave Chicago IL 303 - Sidewalk	Beat: 0825
	Star No	Emp No
	Name	Unit Assigned: 0702
NON OFFENDER	Reporting Date: 29 September 2017 11:30	RO Arrival Date: 05 October 2017 18:20
	Reporting Officer: 19779	Beat: 124
	COMPLAINANT - Individual	Beat: 007
	Name: LOMAX, Mattie	Demographics
INJURIES	Res: 6300 S Western Ave Chicago IL	Age: Years
	Beat: 0825	
	Beat: 5100	
	VICTIM - Individual	
OTHER	Name: LOMAX, Mattie	Demographics
	Res: 9330 S Wentworth Ave #41 Chicago IL 773 - 253 - 8206	Age: 67 Years
	Beat: 0634	
	Beat: 5100	
Sobriety: Sober		

Injury Info (LOMAX, Mattie - Complainant)

Responding Unit:

Injury Info (LOMAX, Mattie - Victim)

Responding Unit:

Type

Abrasions

Weapon Used

Other

DOMESTIC INFO

Miscellaneous

Victim Information Provided

Flash Message Sent ? No

RD #: JA459744

Chicago Police Department - Incident Report

RD #: JA459744

NARRATIVE

COMP STATES SHE EXITED THE 63RD ST BUS, AND BEGIN TO CROSS THE STREET. COMP TRIPPED ON SOME UNEVEN CONCRETE/SIDEWALK AND FELL. COMP HAS A CONTUSION ON HER RIGHT KNEE AND HER LEFT SHOULDER. COMP WENT TO CLINIC WAS EXAMINED BY DR COLEMAN AT 9415 S WESTERN AVE. AND PRESCRIBED MEDS FOR PAIN. COMP HAS NO FURTHER INFO.

PERSONNEL

	Star No	Emp No	Name	User	Date	Unit	Beat
Approving Supervisor	1698		IRAMIYA, Admon		05 Oct 2017 21:47	124	
Reporting Officer	19779		BRADY, Lynette		05 Oct 2017 20:17	007	0702

INCIDENT Non-Criminal Injury to Citizen Case# 0111202529 DATE/TIME OF OCCURRENCE 8/18/17-11:13P
NAME OF VICTIM/COMPLAINANT JOAN MATTIE BEAT/UNIT OF ASSIGN. 102 BEAT OF OCCUR. 025
CASE NAME - PEOPLE OF THE STATE OF ILLINOIS/CITY OF CHICAGO vs. _____
If an arrest has taken place, the following is your court information: Date: _____
If you need more help call the Victim/Witness Assistance Program of the Cook County State's Attorney's Office at (773) 869 - 7200.

Your case will be on file with the Chicago Police Department under the above listed R.D. Number. Refer to this number whenever you are communicating with the Chicago Police Department concerning this incident. Your case will be assigned for follow-up investigation based upon specific facts obtained during the initial investigation. The presence of these facts can predict whether a comprehensive follow-up investigation would likely result in the arrest and prosecution of the suspect(s) or the recovery of property. Your case will be reviewed and retained to determine if criminals active in the area can be identified. A detective will not routinely contact you unless additional information is required or your further assistance is needed.

TO REPORT ADDITIONAL INFORMATION
If you have knowledge of specific facts which might assist in the investigation of your case, please contact the unit marked below:

PROPERTY CRIMES	VIOLENT CRIMES	SPECIAL VICTIMS
AREA CENTRAL <input type="checkbox"/> (312) 747-8382	<input type="checkbox"/> (312) 747-8380	<input type="checkbox"/> (312) 747-8385
AREA SOUTH <input type="checkbox"/> (312) 747-8273	<input type="checkbox"/> (312) 747-8271	<input type="checkbox"/> (312) 747-8274
AREA NORTH <input type="checkbox"/> (312) 744-8263	<input type="checkbox"/> (312) 744-8261	<input type="checkbox"/> (312) 744-8266

BOMB SECTION ☐ (312) 746-7180 **ARSON SECTION** ☐ (312) 746-7618

MISSING PERSONS LOCATED
☐ When persons reported missing are located or have returned, the MISSING PERSONS SECTION must be contacted IMMEDIATELY at (312) 747-5789 or (312) 747-2881.

COPY OF THE REPORT
The above listed R.D. Number may suffice for insurance purposes. However, there may be instances when a copy of the case report is desired. A copy of the case report which verifies that an incident of injury, loss or damage has been reported to the Chicago Police Department may be obtained after 14 working days from the date the incident was reported. To obtain a copy of the report, send a check or money order payable to the "DEPARTMENT OF REVENUE-CITY OF CHICAGO" in the amount of \$.50 and a self-addressed stamped return envelope to: Chicago Police Department Headquarters, Records Inquiry Section, 1st floor, 3510 South Michigan Avenue, Chicago, Illinois 60653. Include the following information with your request: 1) Victim's name and address (or person reporting crime), 2) Type of incident, 3) Address of occurrence, and 4) R. D. Number.

MAKE THE RIGHT CALL
To report a crime in progress or other emergency that requires immediate police response, call 911. To report non-emergency situations, call the Police Department at 311 within City limits, or if outside the City limits call (312) 746-6000.

CHICAGO ALTERNATIVE POLICING STRATEGY (CAPS)
SAFE NEIGHBORHOODS ARE EVERYBODY'S BUSINESS
The police alone cannot solve the problems of crime in our City. It takes an active and informed community working with the police and other City agencies to really make a difference. Join your neighbors and your neighborhood police officers as we work together to reduce crime and improve the quality of life in our City. Become part of the CAPS team in your community. To find out how, call 311 or visit online at: <http://www.chicagopolice.org>.

You live on Beat _____
Your next Beat Community Meeting will be held on (date / time) _____
at (location) _____

TELECOMMUNICATIONS DEVICE FOR THE DEAF/TELETYPE (TDD/TTY)
Hearing-impaired persons who possess such equipment may communicate with the Chicago Police Department 24 hours a day by calling (312) 746-9715. Hearing-impaired persons in need of assistance during normal business hours may also contact their local police district or the Special Activities Section at (312) 745 - 5823.

OBTAINING A WARRANT OR SUMMONS FOR CRIMINAL CHARGES
If an arrest is made, you will be informed of the date, time, and location of the court proceedings at which your appearance will be required. When you report a crime and an arrest is not made, you may go in person to the appropriate court listed below to request that criminal proceedings be initiated by way of a warrant or summons. Bring this Victim Information Notice and any other relevant information, such as the offender's name, physical description, and home address to the warrant officer assigned to the court between 8:30 am and 11:30 am Monday through Friday (excluding court holidays). The warrant officer will then assist you in the process of obtaining the warrant or summons.

Police District of Occurrence		Court Branch for Warrant or Summons	
<input type="checkbox"/>	14,15,16,17,25	Branch 23	5555 W. Grand Ave.
<input type="checkbox"/>	1,18,19,20,24	Branch 29	2452 W. Belmont Ave.
<input type="checkbox"/>	2,7,8,9	Branch 34	155 W. 51st St.
<input type="checkbox"/>	3,4,5,6,22	Branch 35	727 E. 111th St.
<input type="checkbox"/>	10,11,12	Branch 43	3150 W. Flournoy St.

* For incidents relating to domestic violence, a warrant/summons will only be issued from the Domestic Violence Court located at 555 West Harrison, on the first floor.

AUTOMATED VICTIM NOTIFICATION (AVN)
The County of Cook has a toll free, multilingual, 24-hour Automated Victim Notification System. To obtain information about a defendant's court date or custody inside of Cook County Jail: call 1-877-846-3445. Do not depend only on the AVN for your safety. If you feel that you may be in danger, take precautions as if the defendant has already been released.

ILLINOIS CRIME VICTIMS NOTIFICATION
Innocent victims of violent crime may be eligible to receive benefits from the Illinois Crime Victims Compensation program for such costs as medical, funeral, loss of support, and wage loss. NO RECOVERY IS PROVIDED FOR PROPERTY LOSS OR DAMAGE, NOR FOR PAIN OR SUFFERING. To apply or to determine whether one qualifies, the victim, or if deceased, a relative or dependent, must contact the Illinois Attorney General's Office. Further information and claim forms can be obtained from the Crime Victims Compensation Program, Office of the Attorney General of Illinois, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601, or by calling (312) 814-2581 or 1-800-228-3368, TTY: 1-877-388-1130 or email at crimevictimservices@atg.state.il.us.

RECOVERY OF PROPERTY - STOLEN VEHICLE RECOVERED
The Chicago Police Department must be notified IMMEDIATELY via the "911" emergency number, when property reported lost or stolen is recovered.

CREDIT CARDS - CHECKS, LOST OR STOLEN
Immediately notify the concerned credit card issuer or bank by telephone to reduce the possibility of being liable for the unauthorized use of your lost or stolen credit card or check. It is suggested that you also inform the credit card issuer or bank in writing as a follow-up measure to ensure proper notification.

JA-459744

Oct 6, 2017



ADVOCATE TRINITY HOSPITAL
2320 E. 93rd Street
Chicago, IL 60617-3983

Ordering Dr : COLEMAN-MD, CEDRIC L
Attending Dr : COLEMAN-MD, CEDRIC L
Admitting Dr : COLEMAN-MD, CEDRIC L
Referring Dr : COLEMAN-MD, CEDRIC L
Consulting Dr :

Diagnostic Imaging

Procedure: XR SHOULDER LT 3V Procedure Date/Time: 10/6/2017 11:00 CDT Accession #: XR-17-0596980 Patient Age at Exam: 67 years

CPT code
73030
73030

EXAM: XR SHOULDER LT 3V 10/06/2017

INDICATION: Left shoulder pain following injury.

COMPARISON: None.

Three views of left shoulder obtained on four images are submitted.

FINDINGS: No definitive acute fracture, dislocation, or significant osseous abnormality of visualized left shoulder is seen.

Tortuous thoracic aorta and endplate degenerative changes of partially included thoracic spine are noted.

IMPRESSION: No definitive acute or significant osseous abnormality of visualized left shoulder. Recommend followup as clinically warranted.

**** FINAL ****

Transcribed By: TP
10/06/17 1:18 pm

Dictated By: KIM-MD, HOWARD MD

Electronically Reviewed and Approved By: KIM-MD, HOWARD MD 10/06/17 1:21 pm



Send To :

COLEMAN-MD, CEDRIC L
9415 S WESTERN AVENUE #209
CHICAGO, IL 60643-

Pt Name : LOMAX, MATTIE T

Pt Phone : (773)253-8206

MR # : TRI-000900216

DOB : 2/9/1950

Billing # : 218738326

Ord Dr : COLEMAN-MD, CEDRIC L

Sex : FEMALE

Age : 67 years

Svc : XRY

Pt Loc :

Ord Dr # : (708) 229-1600

Page 1 of 1

Print D/T : 10/7/2017 09:17
CDT



Summary of Today's Visit

Lomax , Mattie DOB:02/09/1950

Account No 19209

Gender:Female

Race:Black or African American

Ethnicity:Not Hispanic or Latino

Preferred Language:English

10/05/2017 visit with Cedric C. Coleman,
MD

Reason for Visit

- Fell of bus pain in left arm
- Scar righ tknee

Vitals

- Ht 5 ft 5 in (in)
- Wt 191 (lbs)
- BP-Treatment 144/81 (mm HG)
- Temp 97.6 (F)
- BMI 31.78 (Index)
- Pulse sitting 67

Allergies

- N.K.D.A.

Today's Diagnoses Include

- S40.012AContusion of left shoulder, initial encounter

Medication List

- Start Meloxicam : 15 MG 1 tablet Orally Once a day,30 day(s) ,30 ,Refills: 0

Other medications you are on

- Taking Lorazepam : 1 MG 1 tablet at bedtime as needed Orally bid,30 days ,60 Tablet ,Refills: 0

Your Next Appointment(s)

- Thu, 9 Nov 2017 at 11:15 AM with Cedric C. Coleman, MD at Cedric L Coleman Md 9415 S Western Ave Ste 209 Chicago, IL 606432730 Phone: 708-229-1600 (Reason: 1 month f/u)

Summary of Today's Visit for - Lomax , Mattie DOB:02/09/1950 Account No: 19209

Cedric L. Coleman Md 9415 S Western Ave Ste 209 Chicago, IL 606432730 708-229-1600

Summary generated by eClinicalWorks (www.eclinicalworks.com)

This document contains confidential information about your health. To maintain your privacy, do not throw this document in the trash. If you do not wish to keep this document for your records, please shred or otherwise securely dispose of your copy. If you are not the intended recipient, please destroy this document and report it to the physician's office named above.

Summary Of Today's Visit

Page 1 of 1



Summary of Today's Visit

Lomax , Mattie DOB:02/09/1950

Account No 19209

Gender:Female

Race:Black or African American

Ethnicity:Not Hispanic or Latino

Preferred Language:English

11/29/2017 visit with Cedric C. Coleman,
MD

Allergies

- N.K.D.A.

Medication List

Other medications you are on

- Taking Lorazepam : 1 MG 1 tablet at bedtime as needed Orally bid,30 days ,60 Tablet ,Refills: 0
- Taking Meloxicam : 15 MG 1 tablet Orally Once a day,30 day(s) ,30 ,Refills: 0

Other Medical Conditions (Problem List)

- M19.90 Osteoarthritis
- F43.9 Stress

Your Next Appointment(s)

- Tue, 27 Feb 2018 at 10:15 AM with Cedric C. Coleman, MD at Cedric L Coleman Md 9415 S Western Ave Ste 209 Chicago, IL 606432730 Phone: 708-229-1600 (Reason: 3 month f/u)

Summary of Today's Visit for Lomax, Mattie DOB:02/09/1950 Account No: 19209
Cedric L Coleman Md 9415 S Western Ave Ste 209 Chicago, IL 606432730 708-229-1600
Summary generated by eClinicalWorks (www.eclinicalworks.com)

This document contains confidential information about your health. To maintain your privacy, do not throw this document in the trash. If you do not wish to keep this document for your records, please shred or otherwise securely dispose of your copy. If you are not the intended recipient, please destroy this document and report it to the physician's office named above.

Trinity Hospital



2320 East 93rd Street
Chicago, Illinois 60617-9984
Telephone 773-967-2000
Radiology Department: 773-967-3998

DATE:

2/04/2020

To Whom It May Concern:

This is to certify that your employee

Mattie Lomax

was in our department today undergoing an examination.

If you have any questions regarding the above, please feel free to contact me at
(773) 967-3998.

Our regular business hours are:

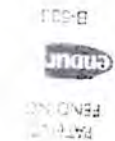
Monday through Friday:
6:30 a.m. until 6:30 p.m.
Saturday
7:00 a.m. until 3:30 p.m.

Thank you,

A. Miller

Diagnostic Imaging Department

Release to work—patient-Jan.07.doc



FIN: 218738326

MED

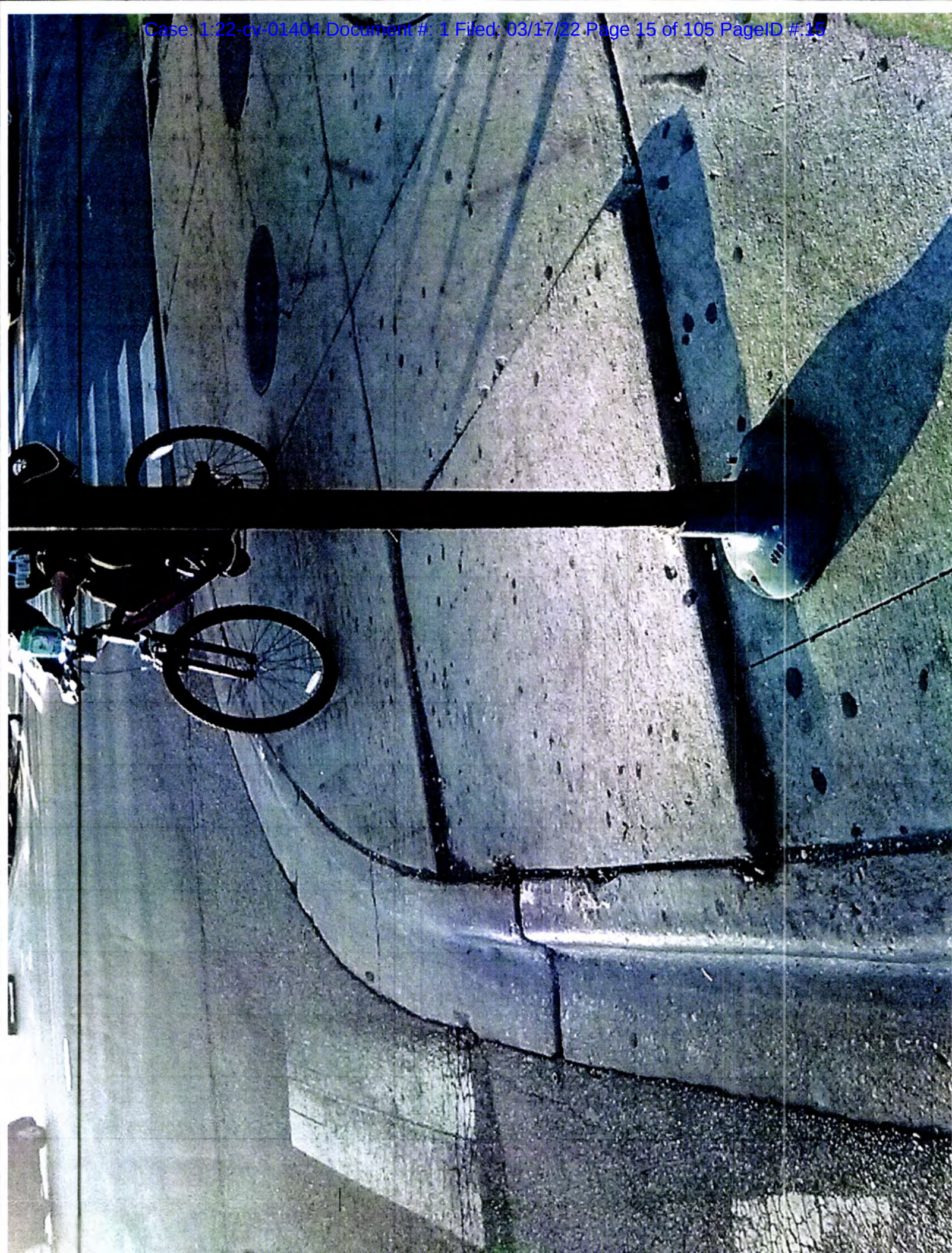
MR: 000900216
COR: 02/09/1950

LOMAX, MATTIE T

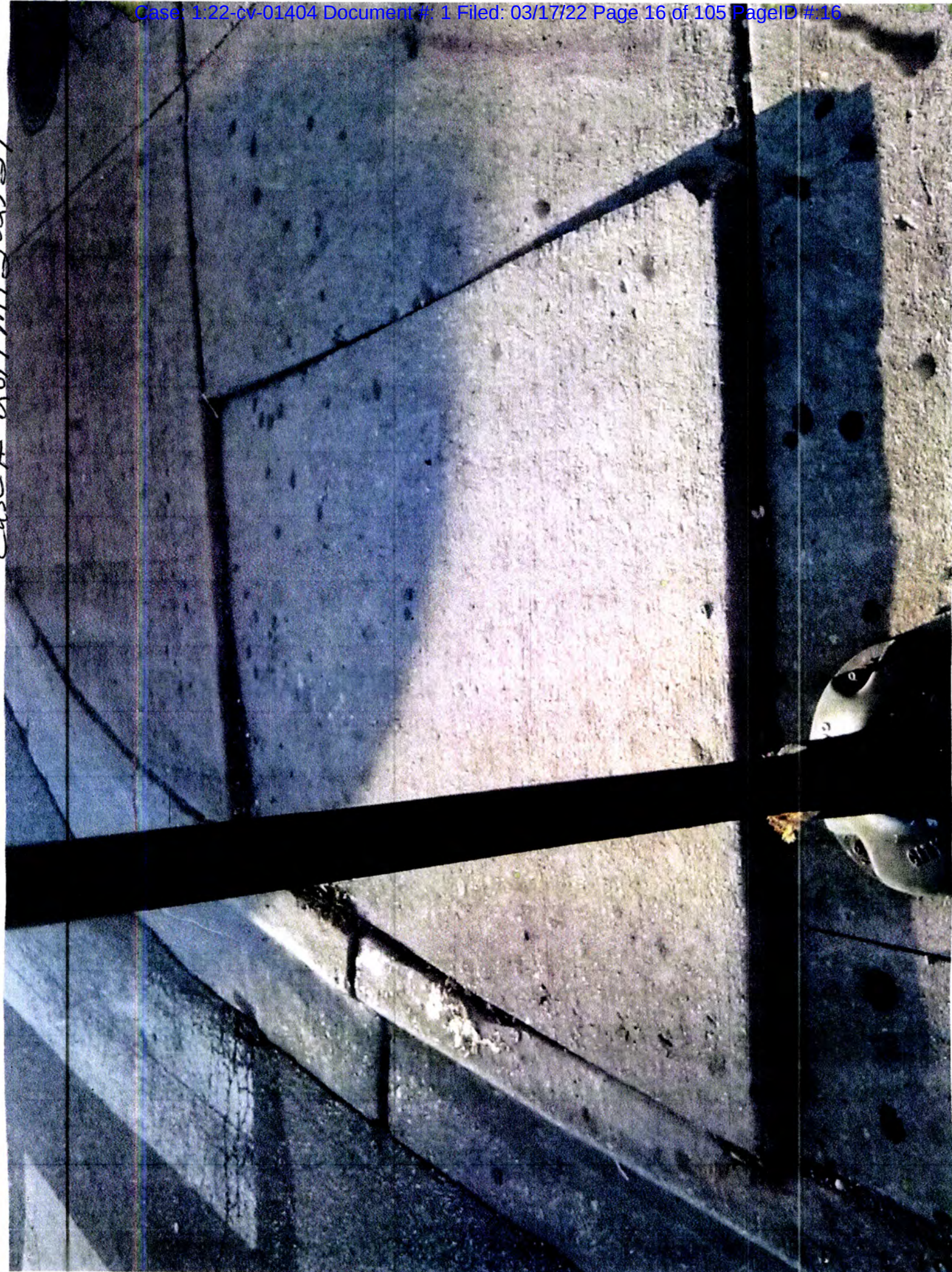


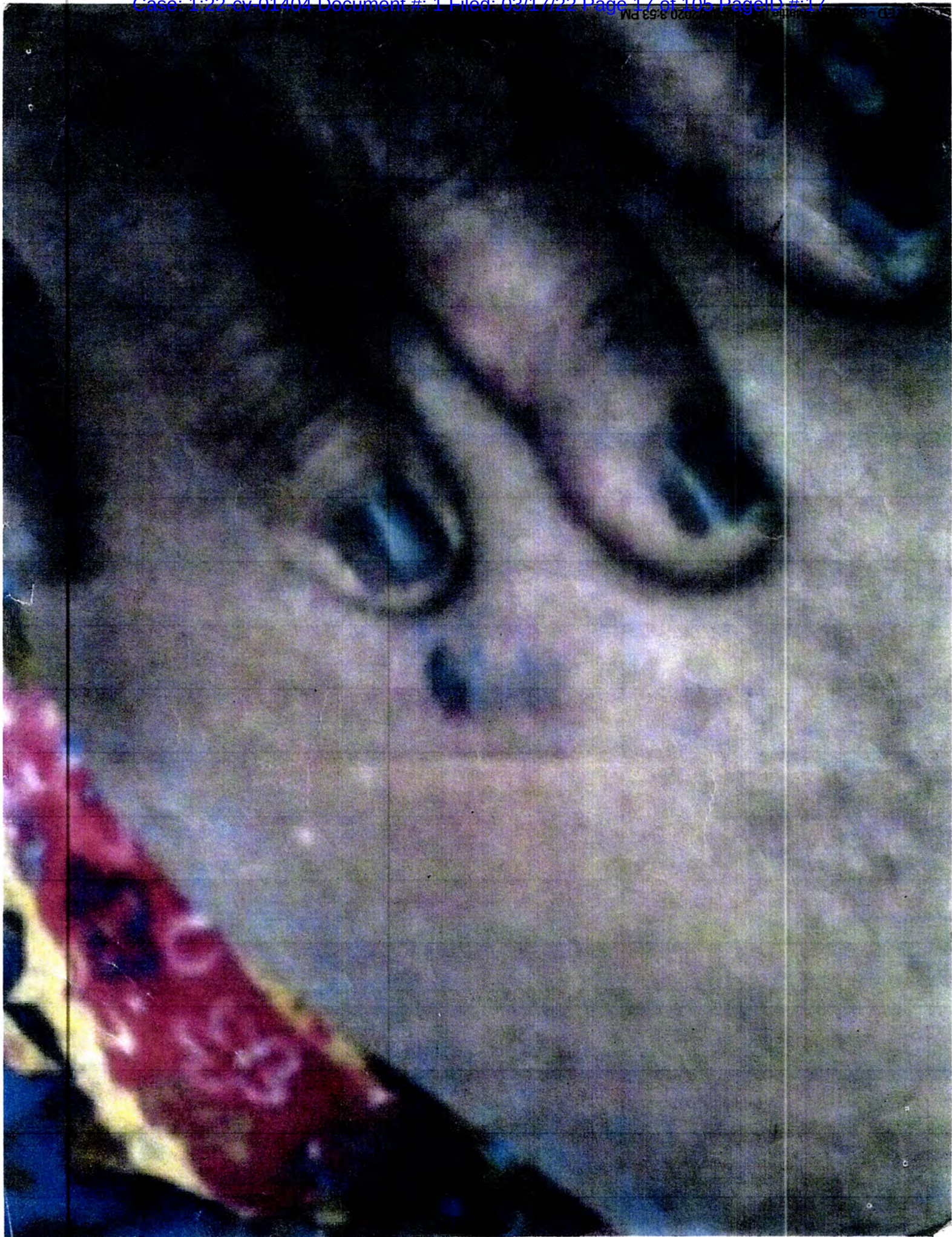
LAB

TRI



CASE # 2017111208357





Google Maps S Western Ave

Bus Stop

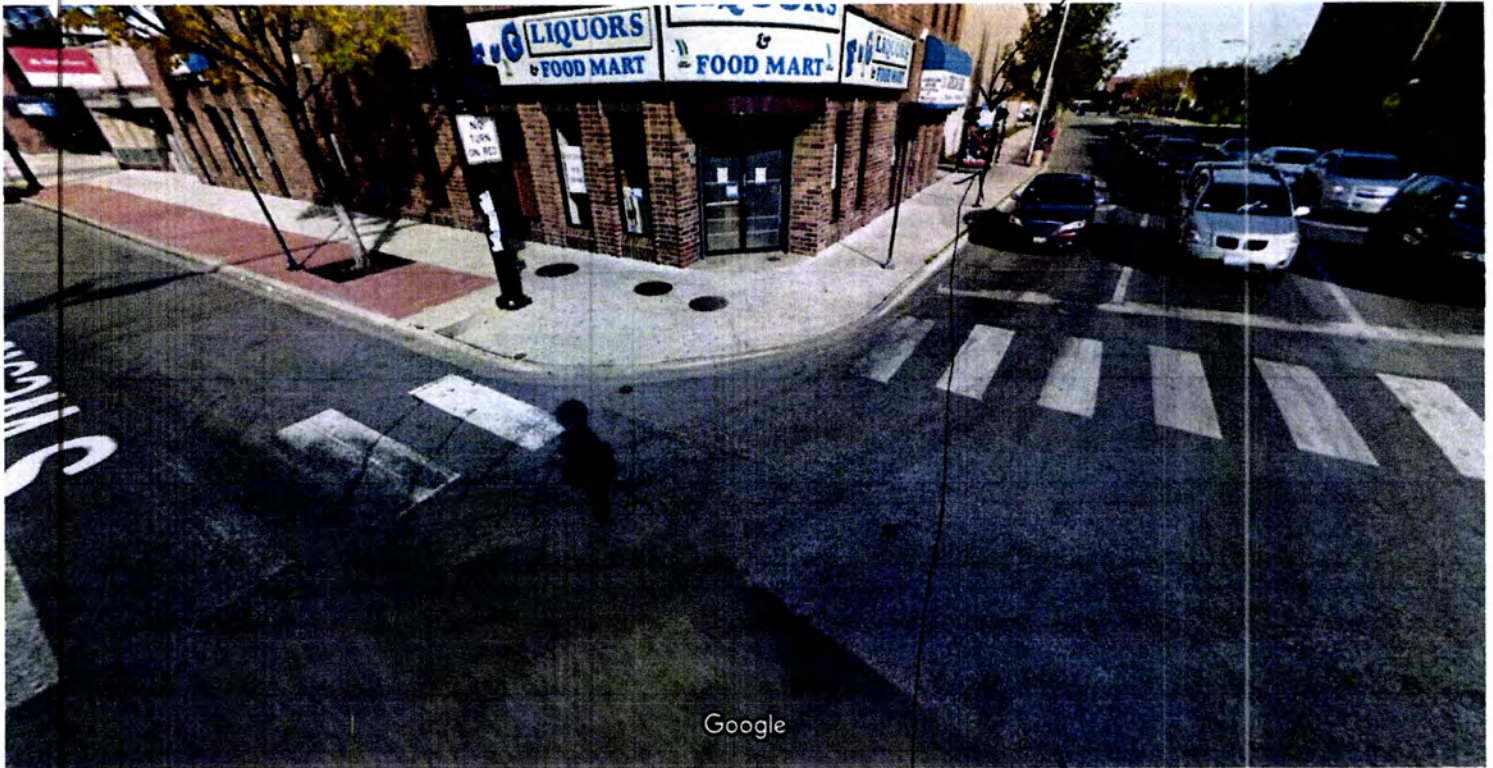


Image capture: Oct 2017 © 2018 Google

Chicago, Illinois

Google, Inc.

Street View - Oct 2017

*It is here where
the sidewalk is lifted up from
the ground.*

W 67th St



6301 S
Western

W 67th St

125425

6305 S Western Ave - Google Maps

9/29/2018

Google Maps 6305 S Western Ave



Image capture: Oct 2017 © 2018 Google

Chicago, Illinois

Google, Inc.

Street View - Oct 2017



Google Maps 6307 S Western Ave



Image capture: Oct 2017 © 2018 Google

Chicago, Illinois

Google, Inc.

Street View - Oct 2017



6307 Sout
Western A

S Campbell Ave
S Western Ave
W 44th St

9/29/2018

6305 S Western Ave - Google Maps

Google Maps 6305 S Western Ave



Image capture: Oct 2017 © 2018 Google

Chicago, Illinois

Google, Inc.

Street View - Oct 2017



CLAIMS
(312) 744-5650

OCT 4, 2017

Case # 2017M1302539

GENERAL LIABILITY - PERSONAL INJURY CLAIM FORM

Indicates
required field *

Claimant Information

Claimant Name:* Mattie Lomax
Street Address:* 9330 S. Wentworth Ave/ unit #41
City/State/Zip Code:* Chicago, IL 60620
Telephone Number: 773-253-8206
(Home) (Work) (Mobile)

Injured Person Information

☒ Injured
Person same as claimant
Name of injured person: Yes
Street Address: 63rd St & Western
City/State/Zip Code: Chicago, IL
Telephone Number:
(Home) (Work) (Mobile)



General Claim Information

Date & Time of Incident:* September 29, 2017 on a Friday (Date)
Between 11:00 am and 11:30 am (Time)

Describe in Detail How Incident Occurred:*
Ms. Lomax had just gotten off of the west bound 63rd street bus, about
to walk cross the street on west western and 63rd and all of a sudden
Ms. Lomax fall to the ground Scaring her right knee (see attached picture)
in which two ladies had helped her off of the ground.

Describe injuries:*
Scaring her right knee
See attached picture

Street Address of Incident or Location of Incident: *
W. 63rd St + S. Western

City/State of Incident: Chicago, IL 60636

Police Report Number: SA-459744

Witness Information

Signature Information

VERIFICATION BY CERTIFICATION

☒ Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.*

Preparer's Name: * Mattie Lomax

Claimant Signature: * Mattie Lomax

Date: * _____

Preparer Signature: Mattie Lomax Date: October 4, 2017

City of Chicago Claims Unit
30 N. LaSalle Street, Suite 800
Chicago, IL 60602
(312) 744-5650 Voice
(312) 744-5449 Fax

M Gmail

Case# 2017 MI 302539

Touch Of Color <akalomax@gmail.com>

I need footage from a camera on 63rd st and western

2 messages

Touch Of Color <akalomax@gmail.com>

To: cdotfoia@cityofchicago.org

Mon, Mar 19, 2018 at 4:48 PM

Hi, my name is Mattie Lomax,

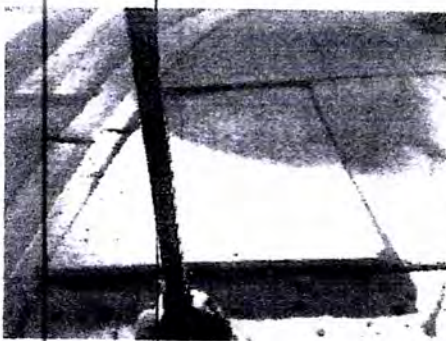
On September 29, 2017 between the hours of 11:00 am and 11:30 am I feild on the corner of 63rd and western on a big pic of concrete that was lifted from the ground and I hurt myself. Can I get photo of the addicident

Mattie Lomax/

773-359-4190 or cell 773-494-6245

3 attachments

Bus stop at 63rd and western.jpg
910K



side walk lifted up.jpg
789K

s. western ave the other side.pdf
710K

cdotfoia <cdotfoia@cityofchicago.org>
To: Touch Of Color <akalomax@gmail.com>

Tue, Mar 20, 2018 at 2:24 PM

Good Morning Mattie Lomax

This e-mail is in response to your FOIA request for video footage from the intersection of 63rd Western on Sept 29, 2017.

Streaming video is retained for 30 days. Your request is over the 30-day aging cycle. Please note that Section 11-208.6(g) of the Automated Traffic Law Enforcement Systems ("ATLES") statute states that:

3/20/2018

Gmail - I need footage from a camera on 63rd st and western

(g) Recorded images made by an automatic traffic law enforcement system are confidential and shall be made available only to the alleged violator and governmental and law enforcement agencies for purposes of adjudicating a violation of this Section, for statistical purposes, or for other governmental purposes. Any recorded image evidencing a violation of this Section, however, may be admissible in any proceeding resulting from the issuance of this citation – 625 ILCS 11-208.6(g)

Red Light violations are retained for 2 years. Those receiving red light tickets are able to view the video from the City's website with violation notice and license plate numbers.

CDOT does not posses any records that are responsive to your request.

Thank you.

CDOT Freedom of Information staff

From: Touch Of Color <Picta... >

Sent: Monday, March 19, 2018 4:48 PM

To: cdotfoia

Subject: I need footage from a camera on 63rd st and western

[Quoted text hidden]

This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail (or the person responsible for delivering this document to the intended recipient), you are hereby notified that any dissemination, distribution, printing or copying of this e-mail, and any attachment thereto, is strictly prohibited. If you have received this e-mail in error, please respond to the individual sending the message, and permanently delete the original and any copy of any e-mail and printout thereof.

Oct 12, 2017



**CITY OF CHICAGO
DEPARTMENT OF LAW
City Claims Unit**

VIA CERTIFIED & U. S. MAIL

October 12, 2017

**MATTIE LOMAX
9330 S. WENTWORTH AVE UNIT 41
CHICAGO IL. 60620**

**RE: Our Client: City of Chicago
Claimant: MATTIE LOMAX
Loss Date: 09/29/2017
Our File #: CI-17-500747-01**

Dear MATTIE LOMAX,

This letter will acknowledge receipt of your claim filed with the City of Chicago and will further serve to advise that your claim is subject to a one year Statute of Limitations. The Statute will expire on the one-year anniversary of the loss.

In the event, prior to that date, you fail to resolve or pursue further legal recourse, your ability to do so will forever be lost.

Your claim is under investigation and we will be in contact with you upon its completion.

Sincerely,

Landon Howard
Claims Specialist
312-744-6729



30 NORTH LASALLE STREET, ROOM 800, CHICAGO, ILLINOIS 60602.
TEL (312) 744-5650 FAX (312) 744-5449

312-744-5650
312-744-6729

Main office #
Landon Howard
#

Oct 13 2017



Claims Unit
30 North LaSalle Street
Suite 800
Chicago, Illinois 60602

DEPARTMENT OF LAW

60602 221802309



NOV 14 2017
CHICAGO, IL 60602
\$0.08

Dec 8, 2017

2120 - Served 2220 - Not Served 2620 - Sec. of State
 2121 - Alias Served 2221 - Alias Not Served 2621 - Alias Sec. of State
 Small Claims Summons (Claims not to exceed \$10,000)

(09/01/16) CCM N751 A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

MUNICIPAL DEPARTMENT, SMALL CLA MUNICIPAL DISTRICT

Name all Parties

MATTIE LOMAX

Plaintiff(s)

No.

17M1302539

Amount Claimed: \$ 5,000.00

*Return Date: 01-05-2018

Trial Date: _____

Time: _____

Room: _____

CITY OF CHICAGO DEPARTMENT OF LAW CITY CLAIMS

Defendant(s)

UNIT/DBA/ LONDON HOWARD CLAIMS SPECIALIST

Address of Defendant(s)

Please serve as follows: Certified Mail

Sheriff Service (Plaintiff check one)

Alias

30 N. LaSalle St.
Chicago, IL 60602

SMALL CLAIMS SUMMONS

(IL Sup. Ct. Rules 281-288)

To each Defendant:

YOU ARE SUMMONED and required:

To file your written appearance by yourself or your attorney and pay the required fee in:

X Richard J Daley Center
 50 W Washington, Rm 602
 Chicago, IL 60602
 District 3 - Rolling Meadows
 2121 Euclid, Rm 121
 Rolling Meadows, IL 60008
 District 5 - Bridgeview
 10220 S 76th Ave, Rm 121
 Bridgeview, IL 60455

District 2 - Skokie
 5600 Old Orchard Rd, Rm 136
 Skokie, IL 60077
 District 4 - Maywood
 1500 Maybrook Dr, Rm 236
 Maywood, IL 60153
 District 6 - Markham
 16501 S Kedzie Pkwy, Rm 119
 Markham, IL 60428

on* _____ (Return Date)

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT, A COPY OF WHICH IS HERETO ATTACHED.

To the officer: (Sheriff Service)

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service, and not less than 3 days before the day for appearance. If service cannot be made, this summons shall be returned so endorsed.

This summons may not be served later than 3 days before the day for appearance.

THERE WILL BE A FEE TO FILE YOUR APPEARANCE

Atty. No.: _____ Pro Se 99500

Witness Date: _____

Name: MATTIE LOMAX/ Pro se 9950

Atty for: MATTIE LOMAX PRO SE

Address: 9330 S. Wentworth Ave., #41

City: Chicago

State: IL

Zip: 60620

Telephone: 773-253-8206

Service by Certified Mail: _____

(Date)

Primary Email: akalomax@gmail.com

Date of Service: _____

Secondary Email: _____

(To be inserted by officer on copy left with Defendant or other person)

Tertiary Email: _____

* NOTICE TO PLAINTIFF: Not less than 14 or more than 40 days after issuance of Summons

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

(09/01/16) CCM N751 B

Any person wishing to sue or defend a case as an indigent must petition the court to have the fees, costs and charges associated with the proceedings waived.

Customers may visit www.cookcountyclerkofcourt.org to access the Clerk's filing fees or telephone the District with additional questions.

NOTICE TO DEFENDANT

1. The case will not be heard in court on the return date specified on the reverse side of this form. When you file your appearance and pay the fee required, you will receive your court date. You must come to court on this day.
2. If you do not file an appearance and pay the required fee a JUDGMENT BY DEFAULT may be taken against you for the relief requested in the complaint.

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois courts.

STATE OF ILLINOIS, CIRCUIT COURT _____ COUNTY		APPLICATION FOR WAIVER OF COURT FEES	For Court Use Only
Instructions ▼	MATTIE LOMAX _____ Plaintiff / Petitioner (First, middle, last name) v. CITY OF CHICAGO CLAIMS UNIT _____ Defendant / Respondent (First, middle, last name) DBA / Landon Howard		17M1302532
Enter above the county name where the case was filed.			
Enter the name of the person who started the lawsuit as Plaintiff/Petitioner.			
Enter the name of the person being sued as Defendant/Respondent.			
Enter the Case Number given by the Circuit Clerk or leave this blank if you do not have one.			Case Number

In 1a, enter your full name. If you are completing this form on behalf of a minor or an incompetent adult, provide that person's information.
In 1b, only enter the year you were born. DO NOT enter your entire date of birth.
In 1c, enter your complete current address.
In 2a, enter the number of people age 18 and older living in your house who you support. Support means that the people rely on you financially.
In 2b, enter the number of people under age 18 living in your house who you support.
In 3, check "Yes" if you have received at least 1 of the benefits listed in the past 4 weeks.
If you check "Yes" in 3, skip 4 and sign the form.

Pursuant to Illinois Supreme Court Rule 298 and 735 ILCS 5/5-105, I state:

- 1. I am providing the following information about myself:**

a. Name: MATTIE LOMAX

b. Year of Birth: 02/09/1950

c. Street Address: 9330 S. Wentworth Ave./unit 41

City, State, ZIP: Chicago, IL 60620 / P.O. Box 21392

d. I believe I cannot afford to pay the court fees in this case. *Chicago, IL 60621*

2. I am providing the following information about people who live with me:

a. I support 1 adults (not counting myself) who live with me

b. I support none children under 18 who live with me

3. I have received 1 or more of the benefits listed below in the past 4 weeks:

☒ Yes ☐ No

- Supplemental Security Income (SSI) (Not Social Security)
- Aid to the Aged, Blind and Disabled (AABD)
- Temporary Assistance to Needy Families (TANF)
- State Children & Family Assistance
- Food Stamps (SNAP)
- General Assistance (GA)
- Transitional Assistance

****If you answered "Yes" in section 3, skip section 4 and sign the form.****

WA-P 603.1

This form shall not be modified. It may be supplemented with additional materials.
Page 1 of 3

(09/14)

Enter the Case Number given by the Circuit Clerk: _____

In 4a, check "Yes" if you have applied for at least 1 of the benefits listed in section 3.

In 4b, check the box for each type of money you have received in the past month. Also enter the gross (before taxes) amount for each type.

Include the money received by the people you support who live with you. Support means that the people rely on you financially.

In 4c, check the box for each type of money you have received in the past 12 months. For each type, enter the total amount received in the past 12 months before taxes.

Include the money received by the people you support who live with you.

In 4d, check all of your expenses for the past month and list the monthly amounts. Include the expenses of the people you support who live with you.

4. I checked "No" in section 3, so I am providing the following financial information:

a. I have applied for 1 or more of the benefits listed in section 3:

☒ Yes ☐ No

b. I receive the following money each month. This includes money received by people I support who live with me. (check all that apply)

<input type="checkbox"/> My employment:	\$ 0	<input type="checkbox"/> Other people's employment:	\$ 0
<input type="checkbox"/> Child support:	\$ 0	<input checked="" type="checkbox"/> Social Security (not SSI):	\$ 132.00 mo
<input checked="" type="checkbox"/> Pension:	\$ 927.99	<input type="checkbox"/> Unemployment:	\$ 0
<input type="checkbox"/> Other (list type and amount):			
<input type="checkbox"/> No income			
Total of all money received:		\$ 1059.99	

c. I received the following total amount of money in the past 12 months. This includes money received by people I support who live with me. (check all that apply)

<input type="checkbox"/> My employment:	\$ 0	<input type="checkbox"/> Other people's employment:	\$ 0
<input type="checkbox"/> Child support:	\$ 0	<input checked="" type="checkbox"/> Social Security (not SSI):	\$ 132.00
<input checked="" type="checkbox"/> Pension:	\$ 927.99	<input type="checkbox"/> Unemployment:	\$ 0
<input type="checkbox"/> Other (list type and amount):			
<input type="checkbox"/> No income			
Total of all money received:		\$ 11,404.88	

d. My current monthly expenses are listed below. This includes the monthly expenses of the people I support who live with me. (check all that apply)

<input type="checkbox"/> Rent:	\$ 233.00	per month
<input type="checkbox"/> Home Mortgage:	\$ 0	per month
<input type="checkbox"/> Other Mortgage:	\$ 0	per month
<input checked="" type="checkbox"/> Utilities:	\$ 56.00	per month
<input checked="" type="checkbox"/> Food:	\$ 300.00	per month
<input type="checkbox"/> Medical:	\$ 0	per month
<input type="checkbox"/> Car Loan:	\$ 0	per month
<input checked="" type="checkbox"/> Other (list type and amount):	Path Lenden	\$ 192.00 per month
<input type="checkbox"/> I have no expenses		
Total of all expenses:		\$ 482.00

15.00 \$5.

Enter the Case Number given by the Circuit Clerk: _____

In 4e, check all of the items owned by you and list the value of each item. Include the items owned by the people you support who live with you.

If you own real estate, include the total you owe on any mortgage.

e. I have the belongings listed below. This includes the belongings of the people I support who live with me. (check all that apply)

☒ Bank accounts and cash totaling:

\$ 98.69/c/s

☐ Home real estate, worth:

\$ 0

The total I owe on my home mortgage is:

\$ 0

☐ Other real estate, not including the house I live in, worth:

\$ 0

The total I owe on my other mortgage is:

\$ 0

☐ 1st vehicle worth: \$ 0

The 1st vehicle is paid off: ☐ Yes ☐ No

☐ 2nd vehicle worth: \$ 0

The 2nd vehicle is paid off: ☐ Yes ☐ No

☐ Other (list items and values): _____ \$

☐ None of the above

Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.

The person who filled out this form must sign it.

Enter the complete current address and telephone number of the person who filled out this form.

If you are filling out this form for a minor or an incompetent adult, state your relationship.

I certify that everything above is true and correct to the best of my knowledge.

I understand that making a false statement in this form could be perjury.

Mattie Lomax
Your Signature

9330 S. Wentworth Ave., #41

Street Address

Mattie Lomax

Print Your Current Name

Chicago, IL 60620

City, State, ZIP

773-253-8206/c-773-494-5245

Telephone

Relationship to Minor or Incompetent Adult (if applicable)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Muffie Lomax

Plaintiff/Petitioner

City of Chicago

Defendant/Respondent

No. **17M1302539**

Calendar

ORDER

This matter coming before the Court on an Application and Affidavit to Sue or Defend as an Indigent Person, the Court being fully advised in the premises, IT IS HEREBY ORDERED;

Pursuant to Supreme Court Rule 298 and 735 ILCS 5/5-105:

☒ The applicant is permitted to sue or defend without payment of fees, costs or charges. Fees for the reproduction of any documents contained in the court file or the electronic docket are not waived without specific order of court. The applicant may be ordered to pay any portion of the waived fees or costs out of a settlement or judgment resulting from this action.

☐ The application is denied for the following reason(s):

☐ Payment shall be: ☐ made by (date) OR ☐ deferred until (date) OR ☐ other

ENTERED

DEC 08 2017

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, ILL.

ENTERED:

Dated: *Dec 8*

2017

Judge

Judge's No. *1624*

Payment should be made by cash, money order or cashier's check, directly to the Clerk of the Circuit Court of Cook County at the courthouse where you filed your application.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Copy Distribution - White: 1. ORIGINAL - COURT FILE Canary: 2. PETITIONER'S COPY Pink: 3. RESPONDENT'S COPY

Dec 8, 2017

IN THE CIRCUIT COURT OF COOK COUNTY ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

MATTIE LOMAX,
Plaintiff,

CASE# **17M13025**

v.

CITY OF CHICAGO DEPARTMENT
OF LAW CLAIMS UNIT, DBA/
LONDON HOWARD.
Defendants.

NEGLIGENCE COMPLAINT OF INJURY

I

Plaintiff MATTIE LOMAX is a resident of the City of Chicago, IL, Cook County of the State of Illinois.

II

Defendant is a municipal corporation organized under the laws of the State of Illinois and may be served with process through the CITY OF CHICAGO CLAIMS UNIT/ DBA LONDON HOWARD, 30 North LaSalle Street/ Room 800, Chicago, IL 60602.

III

On or about September 29, 2017 between the hours of 11:00 am and 11:30 am Plaintiff, Mattie Lomax was traveling on public transportation (CTA) bus 63rd street at 6301 S. Western Ave, Chicago, IL in which a damage up lifted concert from the ground on the South side of 63rd street and S. Western Ave., on a public sidewalk over a long period of time in such a manner that dangerous threat to the safety of the public in violation of the laws of the City of Chicago, of Cook County, State of Illinois.

IV

The Defendant had a duty under 10-28-560 the code of the City of liability for damages to the Plaintiff MATTIE LOMAX of the construction of the damage up lifted concert sidewalk and shall be held jointly responsible to the City for any and all damages to persons or property in consequence of any defect in the construction of such vault or for allowing the same or any portion thereof, to remain out of repair and such owner shall be required to keep such vault owner shall be required to keep such vault or coalhole its walls and converting in good order at all times.

FILED
17 DEC -8 PM 11:00
CLERK OF COURT

V.

The Defendant negligently and carelessly allowed the damage of a hazard and threat to the safety of the public sidewalk in which Plaintiff fall and damages her right knee.

VI

On or about September 29, 2017 between the hours of 11:00 am and 11:30 am Plaintiff was carefully getting off the 63rd street bus walking left to cross S. Western Ave trip and fall on a damage sidewalk that was lifted up from the ground, suffering a fracture of her right knee and painful and serious injuries, all as a sole and proximate result of the hazardous conditions of the sidewalk caused by the negligence of the Defendant.

VII

Plaintiff did, through her own counsel, file a general liability personal injury claim in the form of verification by certification by certification stating therein that plaintiff was injured due to a fall on the public sidewalk adjacent to the premises at 6301 S. Western Ave, Chicago, IL because of the dangerous condition caused by the damage sidewalk and that as a result of said fall, suffer damage to her right knee, that plaintiff incurred medical attention in connection with this injury; that plaintiff is making claim for the injury, pain and suffering, and damages therefrom in the amount of \$5,000. This verified claim was served/ hand deliver to the City of Chicago Department of Law claims unit 800/ 30 North LaSalle Street/ Room 800, Chicago, IL 60602. On October 6, 2017. In reply thereto, by certified mail posted October 12, 2017 counsel for Defendant was advised that the plaintiff claim is subject to a one year statute of limitations. The statute will expire on the one-year anniversary of the loss. On December 6, 2017 Plaintiff called the City of Chicago Department of Law claims unit and spoke with Landon Howard/ claims specialist and was advised that Her claim was denied.

VIII

As a direct and proximate result of her accident, Plaintiff has sustained a serious injury to her right knee and has incurred reasonable medical treatments as a result of the fall of the necessary treatment of said injury and reasonable future treatment.

IX

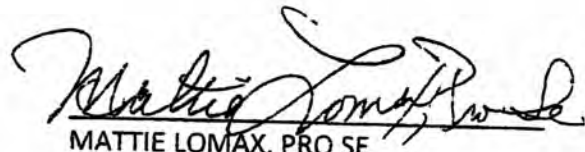
As a further direct and proximate result of defendant's negligence and careless act, plaintiff has sustained considerable pain to her right knee and will endure future pain and suffering in the amount of \$5,000.

As a further direct and proximate result of Defendant's negligence and careless act, Plaintiff has sustained considerable pain in her right knee continually and will endure future pain and suffering in the amount of \$5,000.

As a direct and proximate result of defendant's negligence and careless act, Plaintiff prays for judgment against defendant in the amount of \$5,000

WHEREFORE, Plaintiff prays for judgment against Defendant in the amount of \$5,000.

Date 12/8/2017



MATTIE LOMAX, PRO SE
9330 S. Wentworth Ave., #41
Chicago, IL 60620/
P.O. Box 21393
Chicago, IL 60621
Tele: 773-253-8206
Cell: 773-494-5245

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Mattie Lomax

Plaintiff(s)

v.

No. 17M1302539City of Chicago Department of Law Claims Unit, DBA/Landon Howard

Defendant(s)

TO: City of Chicago Department of Law Claims Unit, DBA/
Landon Howard

MOTION BY

DEFAULT

FOR

Negligence Complaint
OF Injury

Come now, This Motion of Default is to inform the Court that the City of Chicago Department of Law Claims Unit, DBA/Landon Howard has Ignore the Plaintiff, Mattie Lomax of her filing a Negligence Complaint of injury that occurred on September 29, 2017. The Defendant was served by the Court Sheriff on December 13, 2017 and no reply has been made.

I (We) do hereby certify that a copy of this instrument was served upon all parties who have appeared and have not previously been found by the Court to be in default for failure to plead.

Dated: 01-16-2018

Attorney Certification

Atty. No.: SeeName: Mattie LomaxAtty. for: Mattie LomaxAddress: P.O. Box 21City/State/Zip: Chicago, ILTelephone: 773-444-5473

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Copy Distribution-White: 1. ORIGINAL COURT FILE Canary: 2. COPY 1 Pink: 3. COPY 2 Gold: 4. COPY 3

Order

(Rev. 02/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Line #30
10:30Mattie Lomay

v.

No. 17M1302539City of Chicago Department
of Law Claims Unit, D/B/A
Landon Howard

ORDER

This matter coming before this Court on the Plaintiff's motion for Default and Defendant's Motion to Dismiss City of Chicago Department of Law Claims Unit, D/B/A Landon Howard as an improper party, all parties being present; it is hereby ordered that Defendant's Motion to Dismiss City of Chicago Department of Law Claims Unit, D/B/A Landon Howard is granted. Defendant is dismissed with prejudice. Plaintiff has 28 days to file an amended Complaint.

Attorney No.: 90909Name: Barbara BurkeAtty. for: AAddress: 30 N LaSalle StCity/State/Zip: Chicago IL 60602Telephone: 312 744 7150

ENTERED:

Judge Catherine A. Schneider

Dated:

JAN 26 2018

Circuit Court - 2180

Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY
DEPARTMENT, FIRST MUNICIPAL DIVISION

MATTIE LOMAX,

RECEIVED

No. 2017 M1 302539

Plaintiff,

FEB 15 2018

DEPARTMENT OF LAW

v.

CITY OF CHICAGO, Municipal Corporation

Defendants.

DOROTHY BROWN
CLERK

CLERK OF THE CIRCUIT COURT
CIVIL DIVISION

18 FEB -6 AM 9:59

FILED-11

MOTION/
PLAINTIFF AMENDE COMPLAINT

Plaintiff, Mattie Lomax is a resident of the City of Chicago, IL, Cook County of The State of Illinois, by, through its Pro Se litigant, Mattie Lomax, and pursuant to 735 ILCS 5/2-616), move to Amend Negligence Complaint of injury and to Incorporate The City of Chicago, Municipal Corporation. Plaintiff states as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to (5 ILCS 140/ (2) (b).
2. Venue is proper in Cook County pursuant to 5 ILCS § 140/11(c).

PARTIES

3. Plaintiff Mattie Lomax is a resident of Cook County of City of Chicago, IL
4. Defendants are the CITY OF CHICAGO, Municipal Corporation, a "public body" as that term is defined by 5 ILCS § 140/2(a), who is being sued in the Official capacity as CITY OF CHICAGO, Municipal Corporation, as the term is defined by 5 ILCS § 140/2(b).

Possession of the abutting premises, in front of which a coalhole or vault is constructed,
Shall be held jointly responsible to the city for any and all damages to persons or property
In consequence of any defect in the construction of such vault or coalhole, or for allowing
The same or any portion thereof, to remain out of repair, and such owner shall be
Required to keep such vault or coalhole, its walls and coverings, in good order at all
times.

(See Exhibit-C)

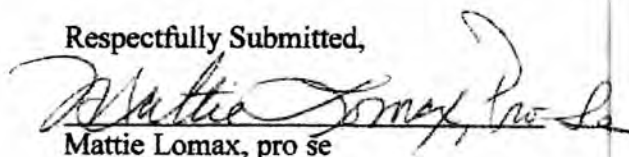
11. As a further direct and proximate result of defendant's negligence and
Careless act, Plaintiff has sustained considerable pain in her right knee and will endure
Future pain and suffering for \$5,000.

WHEREFORE, Plaintiff prays for judgment against defendant for \$5,000.

Dated

02/05/2018

Respectfully Submitted,



Mattie Lomax, pro se
P.O. Box
Chicago, IL 60621
Tel.: 773-359-4190
Cell.: 773-494-5245

Cc: CITY OF CHICAGO, Municipal Corporation,
Edward Siskel, Corporation Counsel
121 N. LaSalle St/ Suite 600
Chicago, IL 60602

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

City of Chicago, a municipal corporation
121 N. LaSalle St./ Suite 600
Chicago, IL 60602



9590 9402 3410 7227 5532 50

2. Article Number (Transfer from service label)

7017 2400 0000 9816 1774

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Graham

C. Date of Delivery

2-15-18

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Mail Restricted Delivery (00)

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

2018 MAR 15 AM 9:59

Mattie Lomax
 City of Chicago, Municipal Corp.

No. *2017 MI 302539*
MI 302539

DISCOVERY CLOSURE AND ARBITRATION ORDER

Cause coming on to be heard and counsel having reviewed the file and finding all defendants having been served with Summons and Complaint.

IT IS HEREBY ORDERED AS FOLLOWS:

1. Any party not having initiated discovery must do so within adequate time per the rules to allow completion within the time specified in Paragraph No. 2 below or all discovery by that party thereafter is barred.

2. All discovery shall be completed by *March 15, 2018*.

4295 ☒ 3. Parties shall complete discovery in such time and schedule any depositions and all other activity so that all discovery will be completed by the DISCOVERY CLOSURE DATE.

7210 ☒ 4. The cause is assigned to Mandatory Arbitration.

5. Routine motions and motions of course shall be presented in Room 1501. All motions relating to the scheduling and conduct of mandatory arbitration hearing and all motions for sanctions under Supreme Court Rules 90 (g) through 95 shall be presented in Room 1501 only. The presentation and scheduling of motions in no way affect the scheduled date of the arbitration hearing.

Atty. No.: *Pro Se*

Name: *Mattie Lomax*

Atty. for: *Mattie Lomax*

Address: *P.O. Box 21392*

City/State/Zip: *Chicago IL 60621*

Telephone: *773-359-4190*

ENTERED:

Dated:

Judge Catherine A. Schneider

MAR 15 2018

Circuit Court - 2180

Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

312-603-6132

Gmail - I need footage from a camera on 63rd st and western



Case# 2017 MI 302539

Touch Of Color <akalomax@gmail.com>

I need footage from a camera on 63rd st and western

2 messages

Touch Of Color <akalomax@gmail.com>
To: cdotfoia@cityofchicago.org

Mon, Mar 19, 2018 at 4:48 PM

Hi, my name is Mattie Lomax,

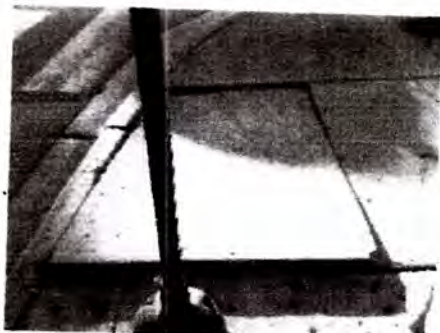
On September 29, 2017 between the hours of 11:00 am and 11:30 am I feild on the corner of 63rd and western on a big pic of concrete that was lifted from the ground and I hurt myself. Can I get photo of the addicdent

Mattie Lomax/
773-359-4190 or cell 773-494-5245

3 attachments



Bus stop at 63rd and western.jpg
910K



side walk lifted up.jpg
789K

s. western ave the other side.pdf
710K

cdotfoia <cdotfoia@cityofchicago.org>
To: Touch Of Color <akalomax@gmail.com>

Tue, Mar 20, 2018 at 2:24 PM

Good Morning Mattie Lomax

This e-mail is in response to your FOIA request for video footage from the intersection of 63rd Western on Sept 29, 2017.

Streaming video is retained for 30 days. Your request is over the 30-day aging cycle. Please note that Section 11-208.6(g) of the Automated Traffic Law Enforcement Systems ("ATLES") statute states that:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Lomax Mattie

Plaintiff(s),

v.

City Chicago, Dept Law Claims, Howard Landon

Defendant(s).

No. 17-M1-302539

FILED-62
18 JUN 25 AM 9:14

CLERK OF THE CIRCUIT COURT
CIVIL DIVISION

CLERK
DOROTHY BROWN

☒ All parties participated in good faith.

☐ _____ did NOT participate in good faith based upon the following findings: _____

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

In favor of Defendant

In addition to the above award, court costs in the amount of: \$0 itemized as follows:

are awarded to _____.

The arbitration hearing began at 8:40 and ended at 9:11 on Monday June 25, 2018.

PLEASE LIST ALL PARTIES NOT PRESENT

**If a party is represented by counsel, he/she is deemed present.

1. _____

2. _____

3. _____

4. _____

[Signature]
Chairperson

[Signature]
Arbitrator

[Signature]
Arbitrator

_____ Dissents as to the Award.

19245 PLACED ON JUDGMENT ON AWARD OR ASSIGNMENT CALL ON July 30, 2018 at 9:00 AM IN ROOM 1501 OF THE
RICHARD J. DALEY CENTER.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MANDATORY ARBITRATION PROGRAM
FIRST MUNICIPAL DISTRICT

PLAINTIFF: LOMAX MATTIE

V.

DEFENDANT: CITY CHICAGO

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CASE NUMBER: 17-M1-302539

IN ARBITRATION

NOTICE OF AWARD

On the 25th day of June, 2018, the award of the arbitrators dated June 25th, 2018, a copy of which is attached hereto, was filed and entered of record in this Cause. A copy of this NOTICE has on this date been sent regular mail, postage prepaid, addressed to each of the parties appearing herein, at their last known address, or to their attorney of record.

Dated this 27th day of June, 2018.

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

June 25, 2018

REPORT OF PROCEEDINGS

June 25, 2018

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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)

4 IN THE CIRCUIT COURT OF COOK COUNTY
5 MUNICIPAL DEPARTMENT-FIRST DISTRICT

6 MATTIE LOMAX,

7 Plaintiff,

8 vs.

9 CITY OF CHICAGO,

10 Defendants.

No. 17 M1 302539

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REPORT OF PROCEEDINGS at the arbitration
hearing of the above-entitled case, at 222 North
LaSalle Street, 13th Floor, Chicago, Illinois, on
June 25, 2018, at 8:31 a.m.

Reported by: Suzanne Thalji, CSR, RMR, CRR

REPORT OF PROCEEDINGS

June 25, 2018

<p>1 BEFORE:</p> <p>2 MR. THOMAS ROCHE</p> <p>3 MR. JASON WAGENER</p> <p>4 MS. SHEANA WOLTER</p> <p>5 APPEARANCES:</p> <p>6 MS. MATTIE LOMAX</p> <p>7 appeared pro se;</p> <p>8 EDWARD N. SISKEL, CORPORATION COUNSEL</p> <p>9 BY MS. BARBARA A. BURKE</p> <p>10 30 North LaSalle Street, Suite 800</p> <p>11 Chicago, Illinois 60602</p> <p>12 312.744.6958</p> <p>13 barbara.burke@cityofchicago.org</p> <p>14 on behalf of the Defendant.</p> <p>15 ALSO PRESENT:</p> <p>16 MS. JOERIXA RUSHING</p>	Page 2	<p>1 ARBITRATOR ROCHE: Defense counsel, let's</p> <p>2 do introductions.</p> <p>3 MS. BURKE: Barbara Burke on behalf of the</p> <p>4 City.</p> <p>5 THE COURT: So you are Ms. Lomax, I take</p> <p>6 it?</p> <p>7 MS. LOMAX: Yes.</p> <p>8 ARBITRATOR ROCHE: All right. My name is</p> <p>9 Tom Roche. I will be the chair for this hearing.</p> <p>10 MS. LOMAX: Excuse me. And this person?</p> <p>11 ARBITRATOR ROCHE: We will get to that.</p> <p>12 Don't worry.</p> <p>13 MS. LOMAX: Okay. Sorry.</p> <p>14 ARBITRATOR ROCHE: My name is Tom Roche. I</p> <p>15 will let the other arbitrators introduce themselves.</p> <p>16 MS. WOLTER: I'm Sheana Wolter.</p> <p>17 MR. WAGENER: Jason Wagener.</p> <p>18 ARBITRATOR ROCHE: Now, Ms. Lomax has</p> <p>19 handed up this packet of stuff, Ms. Burke, that has</p> <p>20 documents in it and a bunch of pictures and</p> <p>21 pleadings and a motion to dismiss. I have a funny</p> <p>22 feeling that this was not tendered under Rule 90(c).</p> <p>23 MS. BURKE: That's correct.</p> <p>24 ARBITRATOR ROCHE: That's correct? You did</p>	Page 4
<p>1 INDEX</p> <p>2</p> <p>3</p> <p>4 OPENING STATEMENT by Ms. Lomax.....</p> <p>5 OPENING STATEMENT by Ms. Burke.....</p> <p>6 CLOSING STATEMENT by Ms. Lomax.....</p> <p>7 CLOSING STATEMENT by Ms. Burke.....</p> <p>8 CLOSING STATEMENT by Ms. Lomax.....</p> <p>9 WITNESS</p> <p>10 MATTIE LOMAX</p> <p>11 Examination by Arbitrator Roche</p> <p>12 Cross-Examination by Ms. Burke</p> <p>13 EXHIBITS</p> <p>14 DEFENDANT'S FOR IDENTIFICATION</p> <p>15 Exhibit 1</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	Page 3	<p>1 not get a 90(c) notice of intent to offer these into</p> <p>2 evidence?</p> <p>3 MS. BURKE: That's correct.</p> <p>4 ARBITRATOR ROCHE: All right. They are not</p> <p>5 admissible. They are not presumptively admissible</p> <p>6 unless you send the notice. I am holding you to the</p> <p>7 same standard that I would hold an attorney, okay?</p> <p>8 MS. LOMAX: Okay.</p> <p>9 ARBITRATOR ROCHE: I know you might not</p> <p>10 understand the rules as well, but Supreme Court Rule</p> <p>11 90(c) says you can have all of these documents</p> <p>12 presumptively admissible if you send them under</p> <p>13 notice to the other side saying that I intend to</p> <p>14 introduce these documents at the arbitration</p> <p>15 hearing.</p> <p>16 MS. LOMAX: Yes.</p> <p>17 ARBITRATOR ROCHE: If you don't do that,</p> <p>18 they are not presumptively admissible. Now, you can</p> <p>19 try and lay the foundation and get them admitted</p> <p>20 anyway, all right, but you need testimony to</p> <p>21 establish a foundation.</p> <p>22 MS. LOMAX: Okay. Now, the attorney</p> <p>23 already have all these documents prior.</p> <p>24 ARBITRATOR ROCHE: That doesn't matter.</p>	Page 5

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<p style="text-align: right;">Page 6</p> <p>1 What 90(c) says is that you specifically identify 2 the documents that you want to introduce at the 3 hearing, okay, not just everything, just the 4 documents that you want to introduce at the hearing. 5 And a lot of these are not documents that you would 6 introduce at the hearing. The complaint isn't a 7 document -- the motion to dismiss is not something 8 that you introduce at the hearing, okay? 9 MS. LOMAX: That wasn't my motion. 10 ARBITRATOR ROCHE: I know, but that's not 11 evidence. That's not something that you would put 12 in a 90(c) packet. You follow me? I say the 90(c) 13 packet isn't, you know, just for everything. It's 14 for the things that you want to use as evidence at 15 the hearing, and if you comply with the rule, 16 they're presumptively admissible, all right? 17 You didn't comply with the rule. So you 18 have to lay a foundation for anything you want to 19 get admitted into evidence. 20 MS. LOMAX: So the foundation are the 21 documents here before us this morning and which 22 everybody has a copy. 23 ARBITRATOR ROCHE: Here, take these back. 24 MS. LOMAX: Oh, you don't want those?</p>	<p style="text-align: right;">Page 8</p> <p>1 appearance of damage to my left leg, okay? So then 2 I filed a claim with the City. Now, I named the 3 wrong person, Landon Howard. So that motion -- 4 yeah. That motion was dismissed because I named the 5 wrong person. 6 So then after that then we had gone to 7 court. The defendant had filed a motion to dismiss, 8 okay, giving them a chance to answer -- 9 ARBITRATOR ROCHE: I think you are kind of 10 going beyond what you need to do. This is all about 11 you tripped and fell over a piece of concrete at 12 63rd and Western after you got off the bus, right? 13 MS. LOMAX: Right, yes. 14 ARBITRATOR ROCHE: Okay. And you think the 15 City is liable for that? 16 MS. LOMAX: Right. 17 ARBITRATOR ROCHE: And you have a scar and 18 you had some medication? 19 MS. LOMAX: Right, and then I had -- I had 20 some X-rays. 21 ARBITRATOR ROCHE: I think I got it. 22 MS. LOMAX: I have some X-rays showing 23 that, okay? 24 ARBITRATOR ROCHE: Okay.</p>
<p style="text-align: right;">Page 7</p> <p>1 ARBITRATOR ROCHE: Okay. We are going to 2 get going. 3 MS. LOMAX: Okay. 4 ARBITRATOR ROCHE: Ms. Lomax, I will give 5 you a chance to make an opening statement, if you 6 wish. 7 OPENING STATEMENT 8 BY MS. LOMAX: 9 Okay. On September the 29th, 2017, I had 10 just left my P.O. box to pay my P.O. box. Then 11 after I left there, then I got on the 63rd Street 12 bus, and I proceeded down to Western and 63rd. As I 13 got off the bus, okay, this big slab right here was 14 lifted off the ground without me even noticing it 15 (indicating). So then I fell, okay? When I fell, I 16 left a scar on myself, okay? 17 Now, there's cameras all over, all over 18 that area there, which I had emailed the defendant 19 asking them to retrieve the pictures of which I had 20 fell. They never respond, okay? So then I filed a 21 general liability claim against the City for their 22 negligence, okay? After that I went to the doctor, 23 okay? The doctor prescribed me a medication, okay? 24 So then after that -- now, there was</p>	<p style="text-align: right;">Page 9</p> <p>1 MS. LOMAX: So then after that the 2 defendant -- well, that was January the 23rd of 3 2018. They filed a motion to dismiss, okay, for 4 improper parties because I had named Landon Howard 5 as the person, but it was the City. 6 ARBITRATOR ROCHE: This probably doesn't 7 matter about whether they're liable or not liable 8 but -- 9 MS. LOMAX: Well, under the statute they 10 are liable. 11 ARBITRATOR ROCHE: We'll argue about that 12 later. 13 MS. LOMAX: Liability for damages. 14 ARBITRATOR ROCHE: Ms. Burke, what is your 15 side of the story here? Do you want to make an 16 opening statement? 17 MS. BURKE: Sure. 18 OPENING STATEMENT 19 BY MS. BURKE: 20 May it please the panel, Ms. Lomax, I'm 21 Barbara Burke. I represent the City of Chicago in 22 this matter, and in order for the plaintiff to prove 23 that the City was negligent, she is going to have to 24 overcome the six elements. And the first issue that</p>

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<p style="text-align: right;">Page 10</p> <p>1 she will not be able to overcome is that the</p> <p>2 sidewalk slab differential as it seems as if she has</p> <p>3 pictures ready to show, it was open and obvious;</p> <p>4 second, there is absolutely no evidence that will be</p> <p>5 presented today that the City had notice of any</p> <p>6 defect with a sidewalk slab; third, that the</p> <p>7 condition that Ms. Lomax claims that she fell on did</p> <p>8 not present an unreasonable risk of harm.</p> <p>9 And since she will not be able to prove all</p> <p>10 six elements and specifically those three, the City</p> <p>11 will be asking for a finding in its favor.</p> <p>12 ARBITRATOR ROCHE: Okay. Ms. Lomax, you</p> <p>13 are the only witness you have, I assume, true? Do</p> <p>14 you have any other witnesses besides yourself?</p> <p>15 MS. LOMAX: It's just myself and the</p> <p>16 document --</p> <p>17 ARBITRATOR ROCHE: Okay. We will go over</p> <p>18 that. Raise your right hand to be sworn.</p> <p>19 MATTIE LOMAX,</p> <p>20 having been first duly sworn, was examined and</p> <p>21 testified as follows:</p> <p>22 EXAMINATION</p> <p>23 BY ARBITRATOR ROCHE:</p> <p>24 Q Okay. Go ahead. Start at the beginning.</p>	<p style="text-align: right;">Page 12</p> <p>1 not going to see the pictures. There is no use</p> <p>2 talking about them really. Go ahead.</p> <p>3 A Yes, sir. So then after that I had gone to</p> <p>4 the doctor. He gave me medication. Then he sent me</p> <p>5 to get X-rays. Then after that I filed a claim</p> <p>6 against the City for negligence, and then after that</p> <p>7 they denied me, okay? So that's when I filed a</p> <p>8 claim against the City for that fall for their</p> <p>9 negligence under this statute.</p> <p>10 Q Okay.</p> <p>11 A Okay?</p> <p>12 Q What statute is it?</p> <p>13 A 1028-560.</p> <p>14 Q All right. What does that say? I don't</p> <p>15 have it memorized.</p> <p>16 A Okay. Liability for damages, the owner and</p> <p>17 the person in possession of the premises, okay, they</p> <p>18 are liable.</p> <p>19 Q This is the sidewalk you are talking about?</p> <p>20 A Damages to persons or property, okay? They</p> <p>21 are liable. I could show you this copy.</p> <p>22 Q No, that's okay.</p> <p>23 A Okay. So everything is done under the</p> <p>24 statute, and so the defendants came to the court,</p>
<p style="text-align: right;">Page 11</p> <p>1 A Okay. At the very beginning -- this all</p> <p>2 happened September the 29th, 2017. I was leaving</p> <p>3 the post office from paying my post office bill,</p> <p>4 okay? I proceeded down 63rd Street going towards</p> <p>5 Western on a CTA bus, okay? I got off the bus with</p> <p>6 my bag, okay? And I was pulling the bag, and I</p> <p>7 just, boom, fell, fell down.</p> <p>8 There was -- there is evidence -- there's</p> <p>9 pictures. There's cameras all over there and which</p> <p>10 I emailed the people that's in charge of the</p> <p>11 cameras --</p> <p>12 Q So you don't have the cameras? You don't</p> <p>13 have the pictures; do you?</p> <p>14 A Of when I fell?</p> <p>15 Q Yes.</p> <p>16 A No.</p> <p>17 Q Okay.</p> <p>18 A But I asked -- I sent this over to the</p> <p>19 defendants asking them to retrieve those pictures.</p> <p>20 Q And if they didn't comply, that was</p> <p>21 something you should have brought up with the judge</p> <p>22 in court, okay?</p> <p>23 A Yes, sir.</p> <p>24 Q But you don't have the pictures. So we are</p>	<p style="text-align: right;">Page 13</p> <p>1 and they did a motion to dismiss. So then I did a</p> <p>2 plaintiff amended complaint in which they didn't</p> <p>3 show up --</p> <p>4 Q Okay.</p> <p>5 A -- at court, okay? Then the defendants</p> <p>6 came back later on, and they did a motion for jury</p> <p>7 trial. They did appearances, jury demand, and that</p> <p>8 was it. There was nothing else -- no letters from</p> <p>9 the City, nothing. So here I am before this Court</p> <p>10 bringing my case.</p> <p>11 Q What do you want?</p> <p>12 A 5000.</p> <p>13 Q Okay. How do you come up with that number?</p> <p>14 A That's the whole amount for small claims,</p> <p>15 because I took this case to small claims.</p> <p>16 Q So you are asking for 5000 because you</p> <p>17 think that's the most you can get?</p> <p>18 A Well, I probably can get more if there's a</p> <p>19 jury trial, but, you know, I said 5000 because I</p> <p>20 hurt myself, and here's documents showing that</p> <p>21 there's damages.</p> <p>22 Q What do the documents show are damages?</p> <p>23 A Okay. Severe narrowing of the bone on bone</p> <p>24 appearances. Here it is right here. I could show</p>

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<p>1 it to you.</p> <p>2 Q That's the X-ray report?</p> <p>3 A Yes, sir.</p> <p>4 Q And you think that's because you fell?</p> <p>5 A Yes. It was a hard -- it was a hard fall</p> <p>6 in which there --- there was a scar left upon my</p> <p>7 knee.</p> <p>8 Q Is it gone?</p> <p>9 A No. It's still here. The scar is still</p> <p>10 here. I think I showed you pictures of that.</p> <p>11 Q We have disregarded all those pictures that</p> <p>12 you handed up here, okay?</p> <p>13 A You don't want to see the pictures. Okay.</p> <p>14 All right.</p> <p>15 Q You have a picture of the sidewalk, right?</p> <p>16 A Yes.</p> <p>17 Q Pull that out.</p> <p>18 A Okay. You want to see the picture of the</p> <p>19 sidewalk. Okay. I have it right here. It's a</p> <p>20 really nice color one.</p> <p>21 Q Who took that picture? Who took that</p> <p>22 picture?</p> <p>23 A I took it from the computer.</p> <p>24 Q From the computer?</p>	<p>1 Q And that's from what, Google Maps?</p> <p>2 MS. BURKE: No.</p> <p>3 A Google Map, this is Google Map.</p> <p>4 BY ARBITRATOR ROCHE:</p> <p>5 Q Okay. All right. Anything else?</p> <p>6 A And what I was trying to get the defendants</p> <p>7 to do, to retrieve the fall from the cameras,</p> <p>8 because there's cameras all over the place where</p> <p>9 and --</p> <p>10 Q And they all belong to the City of Chicago?</p> <p>11 A All belong to the City of Chicago and which</p> <p>12 the person I had contact stated --</p> <p>13 Q Did you file a Freedom of Information Act</p> <p>14 request or something like that?</p> <p>15 A Pardon?</p> <p>16 Q A Freedom of Information Act request or</p> <p>17 FOIA, P-O-I-A.</p> <p>18 A No.</p> <p>19 Q No.</p> <p>20 A I contacted the people that's responsible</p> <p>21 for the cameras, and they sent me this email stating</p> <p>22 that the defendants had to retrieve the footage.</p> <p>23 Q So you sent them a subpoena?</p> <p>24 A Who?</p>
Page 15	Page 17
<p>1 A From the computer, from the computer. I</p> <p>2 went on Google Map, you see. I went on Google Map,</p> <p>3 and then I focused on this sidewalk.</p> <p>4 Q You are sure that that's the exact same</p> <p>5 sidewalk that you tripped on?</p> <p>6 A Exactly sidewalk, exactly sidewalk.</p> <p>7 Q Is there anything on the picture that can</p> <p>8 identify the location of that sidewalk?</p> <p>9 A Yes. Here it is right here (indicating).</p> <p>10 MS. BURKE: Objection to the document that</p> <p>11 Ms. Lomax is showing.</p> <p>12 ARBITRATOR ROCHE: Yes. Okay.</p> <p>13 MS. LOMAX: Why would there be an objection</p> <p>14 to that?</p> <p>15 ARBITRATOR ROCHE: Well, because you didn't</p> <p>16 introduce the documents.</p> <p>17 Q What document are you trying to show me</p> <p>18 that identifies the location?</p> <p>19 A Here it is right here. Here is the</p> <p>20 location and here is a -- here is the same location,</p> <p>21 bus stop at 63rd and Western. Here it is right here</p> <p>22 (indicating).</p> <p>23 MS. BURKE: Objection. That's from --</p> <p>24 BY ARBITRATOR ROCHE:</p>	<p>1 Q The defendants.</p> <p>2 A No, I didn't send them a subpoena.</p> <p>3 Q How about a discovery request, a formal</p> <p>4 request, interrogatories or something like that?</p> <p>5 There's ways of getting information.</p> <p>6 A Well, they told me right here that they</p> <p>7 could not give it to me.</p> <p>8 Q Okay. Okay. Anything else?</p> <p>9 A That's it.</p> <p>10 Q So you want \$5000, and you don't have any</p> <p>11 explanation as to why you should get \$5000 other</p> <p>12 than that's the most you can get?</p> <p>13 A Because I had hurt myself, because the City</p> <p>14 is responsible for --</p> <p>15 Q So pain and suffering?</p> <p>16 A Of course.</p> <p>17 Q Okay.</p> <p>18 A Of course I went through that because it</p> <p>19 shows right here (indicating).</p> <p>20 Q Anything else?</p> <p>21 A No, that's it.</p> <p>22 ARBITRATOR ROCHE: Okay. All right.</p> <p>23 Ms. Burke, you can cross-examine.</p> <p>24 MS. BURKE: Just to clarify two things,</p>

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<p>1 Ms. Lomax did make a FOIA request on March 19, 2018.</p> <p>2 The accident happened on September 29, 2017. Any</p> <p>3 preservation would have needed to be done within 30</p> <p>4 days from the date of the incident, and since it was</p> <p>5 beyond, the CDOT FOIA department did return her</p> <p>6 email indicating that after 30 days there's no</p> <p>7 longer any information.</p> <p>8 ARBITRATOR ROCHE: Okay.</p> <p>9 MS. BURKE: Ms. Lomax did not go to the</p> <p>10 Court and seek leave to have any formal discovery in</p> <p>11 the small claims case. And then just to also</p> <p>12 clarify, the statute that was cited pertains</p> <p>13 specifically to coal hole or vaults.</p> <p>14 ARBITRATOR ROCHE: To what?</p> <p>15 MS. BURKE: Coal hole or vaulted sidewalks.</p> <p>16 And there's been no evidence that this was a coal</p> <p>17 hole or vaulted sidewalk.</p> <p>18 ARBITRATOR ROCHE: Coal-hole?</p> <p>19 MS. BURKE: Yes.</p> <p>20 ARBITRATOR ROCHE: Like where they used to</p> <p>21 pour coal down in the old days, right?</p> <p>22 MS. BURKE: Yes.</p> <p>23 ARBITRATOR ROCHE: All right. Do you want</p> <p>24 to cross-examine Ms. Lomax?</p>	<p>1 Q What is the exact address of the location</p> <p>2 where you fell?</p> <p>3 A The exact location was at --</p> <p>4 Q The address.</p> <p>5 A -- 6301 West Western Avenue.</p> <p>6 Q Is there a business near 6301 West Western</p> <p>7 Avenue?</p> <p>8 A Right, but it's closed.</p> <p>9 Q What is the name of it?</p> <p>10 A It's a food mart there, but it's closed.</p> <p>11 At the time when I was there, it was closed. As you</p> <p>12 can see, when I got off the bus -- oh, here it is.</p> <p>13 When I got off the bus, you can see it's closed, and</p> <p>14 that was around by 11 so --</p> <p>15 Q What is the name of it?</p> <p>16 A It's F & G Liquors and Food Mart, right</p> <p>17 there on the corner as I got off the bus.</p> <p>18 Q How many feet were you from the curb when</p> <p>19 you fell?</p> <p>20 A From the curb? Maybe what, two, because</p> <p>21 the bus drops you off and then you just get off,</p> <p>22 maybe like two feet, and then once I had turned to</p> <p>23 start walking, boom, I just fell completely down.</p> <p>24 Q And where were you looking when you fell?</p>
Page 19	Page 21
<p>1 MS. BURKE: Yes.</p> <p>2 CROSS-EXAMINATION</p> <p>3 BY MS. BURKE:</p> <p>4 Q Ms. Lomax, where is the post office that</p> <p>5 you were coming from that day?</p> <p>6 A I was coming from 611 West 63rd Street in</p> <p>7 Chicago. It's a post office right there, and that's</p> <p>8 in Englewood.</p> <p>9 Q Have you been to that location before?</p> <p>10 A Yes.</p> <p>11 Q Have you taken a bus to that location</p> <p>12 before?</p> <p>13 A To the post office.</p> <p>14 Q Yes.</p> <p>15 A Yes.</p> <p>16 Q And did you take the same route that you</p> <p>17 did the day of your alleged fall prior to</p> <p>18 September 29, 2017?</p> <p>19 A I've been there before.</p> <p>20 Q And you've gotten off at that same</p> <p>21 location --</p> <p>22 A Not off there, no. I have just came to</p> <p>23 that location, the post office, and then I turned</p> <p>24 around and went back the other way.</p>	<p>1 A I was looking towards Western trying to</p> <p>2 cross the street and catch the next bus down to</p> <p>3 95th.</p> <p>4 Q Were you in a hurry?</p> <p>5 A I was just walking normal. I was on my way</p> <p>6 down to 95th and Western.</p> <p>7 Q Was there somebody in front of you?</p> <p>8 A There was people there that helped me, and</p> <p>9 all of that can be seen on the video.</p> <p>10 Q Was there somebody immediately in front of</p> <p>11 you when you got off the bus?</p> <p>12 A There was a lady that turned around and</p> <p>13 asked me did I want her to call the paramedics.</p> <p>14 Q I'm not even getting to the point where you</p> <p>15 fell. When you stepped off the bus, was there</p> <p>16 anybody in front of you?</p> <p>17 A No.</p> <p>18 Q Was there anybody behind you?</p> <p>19 A People were getting off the bus.</p> <p>20 Q Okay. Was there anybody to your right?</p> <p>21 A No, I don't think so. It was just</p> <p>22 basically me. I just got off the bus and bam.</p> <p>23 Q Okay.</p> <p>24 A I had my --</p>

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1	Q Were you distracted at all?	1	correct?
2	A No.	2	A Yes.
3	Q Were you smoking?	3	Q At 9330 South Wentworth Avenue?
4	A No.	4	A Right.
5	Q Did you have anything in your hands?	5	Q And so you live in the city. Are you aware
6	A I had my bag.	6	of the City's 311 system?
7	Q Okay.	7	A The 311 -- yes.
8	A I had a little bag that you roll	8	Q And did you ever call 311 to report any
9	(indicating).	9	defects at 63rd and Western --
10	Q And then what about -- was that in your	10	A I went to the police --
11	right hand?	11	Q -- before you fell?
12	A Right, in my right hand.	12	A No.
13	Q And did you have anything in your left	13	Q Are you aware of anybody that called 311
14	hand?	14	prior to the date of your fall?
15	A No.	15	A No.
16	Q And did you see the bus on the other side	16	Q What kind of shoes were you wearing that
17	of the street?	17	day?
18	A No.	18	A Sneakers.
19	Q So nobody was in front of you blocking your	19	Q So flat rubber-soled shoes?
20	view of the sidewalk --	20	A Right.
21	A No.	21	Q Was there any construction in the area?
22	Q -- is that correct?	22	A No, I didn't see any construction.
23	A No.	23	Q And were you closer to Western, or were you
24	Q And was it sunny that day?	24	closer to 63rd?
Page 23		Page 25	
1	A It was a nice day.	1	A Western.
2	Q Okay. So was the area well lit? Could you	2	Q Okay. Now, when you stepped off the bus,
3	see around you?	3	how many steps did you take before you fell?
4	A It was daytime, yes.	4	A About two because he left you right
5	Q Okay. And you're familiar with that area	5	there -- he left me off right at the bus stop, right
6	because you had been in that area before, correct?	6	at the bus stop, and once I walked down two steps,
7	A No, I'm not very familiar with that area.	7	bam, I fell, because as you can see, as you can see
8	Q How often do you go to your post office	8	on the pictures -- oh, yeah. As you can see on the
9	box?	9	pictures, the bus stop is right there, and that slab
10	A Ch, maybe twice a month.	10	is lifting up right at the -- at that side right
11	Q Okay. And how long have you had the post	11	here (indicating).
12	office box at that location?	12	Q So how did you know that that height
13	A Only a few months, only a few months,	13	differential was what you fell on?
14	um-hum.	14	A I didn't realize it until after I fell. I
15	Q So at the time that you were there the day	15	said, wow, that slab is lifted off the ground.
16	of your fall, you had been there probably like at	16	Q Did you ever measure it?
17	least maybe six times?	17	A No.
18	A During that year?	18	Q How high do you think that that is?
19	Q Yes.	19	A Oh, it's pretty high. It's lifted up
20	A Yeah, probably so.	20	off -- out of the ground.
21	Q Okay. So it's not the first time that you	21	Q Do you think it's like an inch high?
22	had been there?	22	A More than an inch. It is up. It's very --
23	A No. I was there to pay my P.O. box.	23	Q Would it be less than two inches?
24	Q Okay. And you live in the city, is that	24	A Oh, yeah. It's really -- two inches is

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<p>1 like -- no, no. It was really up and it --</p> <p>2 Q And how long was it?</p> <p>3 A How long was it?</p> <p>4 Q Yes.</p> <p>5 A As it is right here (indicating). I don't</p> <p>6 know.</p> <p>7 Q Like a foot, two feet, three feet?</p> <p>8 A Oh, let's see. Maybe five feet.</p> <p>9 Q Okay.</p> <p>10 A Yeah, five feet. It's very long.</p> <p>11 Q Okay. And was there anything covering it</p> <p>12 that day that would block your view of it?</p> <p>13 A No.</p> <p>14 Q Okay. So when you went back and looked at</p> <p>15 it, did it look like something that you should</p> <p>16 avoid?</p> <p>17 A Excuse me?</p> <p>18 Q When you went back after you fell and</p> <p>19 looked at it, did it look like something that you</p> <p>20 should not walk over?</p> <p>21 A Well, yes. No one should walk over that.</p> <p>22 Q And would you have had another way to catch</p> <p>23 the bus that you were trying to catch if you didn't</p> <p>24 step on that height differential?</p>	<p>1 A Fifteen minutes.</p> <p>2 Q -- how did you leave that location?</p> <p>3 A I got up and walked across the street and</p> <p>4 went to the bus stop.</p> <p>5 Q And then where did you take the bus to?</p> <p>6 A To 95th and Western.</p> <p>7 Q And is that when you went to the clinic?</p> <p>8 A No, no, no. I went to another location I</p> <p>9 was going to.</p> <p>10 Q Okay. So where did you go once you got off</p> <p>11 the bus?</p> <p>12 MS. LOMAX: That's irrelevant where I went.</p> <p>13 That's absolutely irrelevant.</p> <p>14 ARBITRATOR ROCHE: So you are objecting?</p> <p>15 MS. LOMAX: She is asking me where did I</p> <p>16 go --</p> <p>17 ARBITRATOR ROCHE: I know. I know. I</p> <p>18 think it's potentially relevant where you were</p> <p>19 going. Where were you going?</p> <p>20 MS. LOMAX: I was going to the bike shop.</p> <p>21 ARBITRATOR ROCHE: Bike shop?</p> <p>22 MS. LOMAX: Bike shop on 95th and Western.</p> <p>23 ARBITRATOR ROCHE: Okay. Go ahead.</p> <p>24 MS. LOMAX: I had --</p>
Page 27	Page 29
<p>1 A No.</p> <p>2 Q There was no other way to get to the bus</p> <p>3 stop that you were trying to get to that day?</p> <p>4 A Walking across the street to get the other</p> <p>5 bus.</p> <p>6 Q But did you have to step on that height</p> <p>7 differential to get to the bus?</p> <p>8 A I didn't even know it was there. I didn't</p> <p>9 even know it was there.</p> <p>10 Q Okay. Because you weren't looking down?</p> <p>11 A No. I thought it was just a smooth</p> <p>12 sidewalk.</p> <p>13 Q Okay. Now, when you fell, can you describe</p> <p>14 how your body moved?</p> <p>15 A I fell down. Everything came, you know --</p> <p>16 the bag and everything down. And then there was a</p> <p>17 couple ladies that was standing at Western and 63rd.</p> <p>18 They wanted me to call the paramedics, and I says</p> <p>19 no, no, you know, because I'm trying to get</p> <p>20 somewhere.</p> <p>21 Q And how long do you think that you were at</p> <p>22 that location?</p> <p>23 A Oh, I don't know. Maybe about 15 minutes.</p> <p>24 Q Okay. And then --</p>	<p>1 ARBITRATOR ROCHE: You answered the</p> <p>2 question. Another question.</p> <p>3 MS. LOMAX: I was going to the bike shop.</p> <p>4 BY MS. BURKE:</p> <p>5 Q Did you end up going to the bike shop?</p> <p>6 A Right.</p> <p>7 Q And then how long did you spend at the bike</p> <p>8 shop?</p> <p>9 A Not very long. I think I was getting my</p> <p>10 tire fixed, getting a tire fixed.</p> <p>11 Q Okay. Did you have the tire with you?</p> <p>12 A Yes.</p> <p>13 Q Okay.</p> <p>14 A Right.</p> <p>15 Q So at that intersection at 95th and</p> <p>16 Western, where is the bike shop?</p> <p>17 A It's on the left side of Western, at 95th</p> <p>18 and Western.</p> <p>19 Q Okay.</p> <p>20 A It's on the left side like across from like</p> <p>21 Sam Club, Wal-Mart, you know, that area right there.</p> <p>22 Q Yes. So you have Standard Bank on one</p> <p>23 corner, the fitness center on the other, Pot Belly</p> <p>24 on another, and then there is a clinic?</p>

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<p>1 A No. I'm more back towards like -- what's</p> <p>2 that, Sam Club? I was closer to Sam Club.</p> <p>3 Q So Sam's Club, Wal-Mart --</p> <p>4 A Yes, Sam Club, and then across the street</p> <p>5 is the bike shop. There's a bike shop there.</p> <p>6 Q Okay. So that's a couple blocks down</p> <p>7 Western, is that correct, down on --</p> <p>8 A That's before -- that's before 95th.</p> <p>9 Q Okay. So then did you walk to the bike</p> <p>10 shop after you got off the bus?</p> <p>11 A Yes.</p> <p>12 Q Okay. And then you spent about an hour</p> <p>13 there; is that correct?</p> <p>14 A No, not an hour, no, no, no. They fixed my</p> <p>15 tire on my bicycle. So what, 20 minutes?</p> <p>16 Q And then where did you go?</p> <p>17 A And then from there I went home.</p> <p>18 Q Okay. How did you get home?</p> <p>19 A Bus.</p> <p>20 Q Okay. And then after you go home, then</p> <p>21 what do you do?</p> <p>22 A And that's when I started feeling --</p> <p>23 feeling funny, you know. Things started to hurt.</p> <p>24 So that's when I called the doctor, and I went to</p>	<p>1 MS. BURKE: Okay. So I am moving to mark</p> <p>2 this as Defendant's Exhibit 1, which is a Google</p> <p>3 photo of 6301 South Western as defendant indicated</p> <p>4 that that --</p> <p>5 Q This accurately represents the location</p> <p>6 where you fell; is that correct?</p> <p>7 A No, that's not the location. Across the</p> <p>8 street is the location.</p> <p>9 Q Okay.</p> <p>10 A See what I'm saying? See, those are</p> <p>11 different (indicating).</p> <p>12 Q Well, in your complaint you said you fell</p> <p>13 at -- you said you fell at 6301 South Western,</p> <p>14 correct?</p> <p>15 A Right, this side right here (indicating).</p> <p>16 Q And this is 6301 South Western, correct?</p> <p>17 A Yes, 6301.</p> <p>18 Q Okay. Thank you. So you go to the doctor.</p> <p>19 What is your doctor's name?</p> <p>20 A Cole, Dr. Cole.</p> <p>21 Q Dr. Cole, C-o --</p> <p>22 A Coleman, Cedric Coleman, C-e-d-r-i-c</p> <p>23 Coleman.</p> <p>24 Q Okay. And how long did you spend with the</p>
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<p>1 the doctor, and that's when he gave me medication,</p> <p>2 and that's when he sent me to get X-rays.</p> <p>3 Q Okay. So do you go to the doctor's office?</p> <p>4 A I went to the doctor office a few days</p> <p>5 later, I think it was. That was October. October</p> <p>6 the 6th I had went.</p> <p>7 Q And then where is that doctor located?</p> <p>8 A He's on Western, 9415 South Western Avenue</p> <p>9 in Chicago, 60643.</p> <p>10 Q Are you aware of anyone that witnessed the</p> <p>11 accident?</p> <p>12 A Only witness are the cameras. The cameras</p> <p>13 would show you where I fell.</p> <p>14 Q Now, I have a picture of 6301 South</p> <p>15 Western.</p> <p>16 A Yes.</p> <p>17 Q Does this scene look familiar to you?</p> <p>18 A Right. It's the same thing that I have,</p> <p>19 um-hum. It's the same thing.</p> <p>20 ARBITRATOR ROCHE: Just look at her</p> <p>21 picture.</p> <p>22 A Okay. Okay. Yes, um-hum, same thing.</p> <p>23 (Defendant's Exhibit 1 was</p> <p>24 marked for identification.)</p>	<p>1 doctor that day?</p> <p>2 A Oh, I spent at least about an hour there.</p> <p>3 Q And what kind of medication did Dr. Coleman</p> <p>4 prescribe you?</p> <p>5 A He gave me meloxicam. Let me spell it.</p> <p>6 M-e-l-o-x-i-c-a-m.</p> <p>7 Q And this is about a week after you fell, is</p> <p>8 that correct, because it's --</p> <p>9 A That was on the 6th.</p> <p>10 Q Of October?</p> <p>11 A Yeah, right, and this happened on the 29th.</p> <p>12 Q Okay. And then at that point are X-rays</p> <p>13 taken?</p> <p>14 A Yes.</p> <p>15 Q Of what body part?</p> <p>16 A The legs.</p> <p>17 Q Both legs, right and left?</p> <p>18 A Yes.</p> <p>19 Q And aside from the medication, did anything</p> <p>20 else happen that day?</p> <p>21 A No.</p> <p>22 Q Did you ever see any other doctors for any</p> <p>23 other kind of treatment?</p> <p>24 A No.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Q Have you ever been involved in any other 2 accident?</p> <p>3 A No.</p> <p>4 Q Have you ever injured your left knee 5 before?</p> <p>6 A No.</p> <p>7 Q Since October --</p> <p>8 A This was the right. It was the right knee, 9 not the left.</p> <p>10 Q Since October 6th of 2017, have you sought 11 any other medical attention up to this day for 12 injuries related to this incident?</p> <p>13 A No.</p> <p>14 MS. BURKE: No further questions.</p> <p>15 ARBITRATOR ROCHE: All right. Is there 16 anything that you feel that you need to clear up 17 based on her questions to you?</p> <p>18 MS. LOMAX: Yes.</p> <p>19 ARBITRATOR ROCHE: What?</p> <p>20 MS. LOMAX: I would like to know why didn't 21 they order the footage of the fall?</p> <p>22 ARBITRATOR ROCHE: Okay. Anything else?</p> <p>23 MS. LOMAX: Why did they not order the 24 footage? That's it.</p>	<p style="text-align: right;">Page 36</p> <p>1 okay? Now, the City is responsible for that, for 2 any falls or any damages -- well, not damages. Any 3 injuries to a person that fall on their sidewalk 4 under the Illinois statute of liability, and that's 5 my closing remarks.</p> <p>6 ARBITRATOR ROCHE: Okay. Ms. Burke?</p> <p>7 CLOSING STATEMENT</p> <p>8 BY MS. BURKE:</p> <p>9 As you heard the evidence presented to you 10 today, there is absolutely no evidence that the City 11 had any notice, either actual or constructive, of 12 any sidewalk slab height differential in this 13 matter. In order for the plaintiff to recover, she 14 has to prove six elements under Jury Instruction 15 120.08, and they are: There was a condition on the 16 sidewalk which presented an unreasonable risk of 17 harm to people on the property; that the City knew 18 or in the exercise of ordinary care should have 19 known of both the condition and the risk; three, 20 that the City could reasonably expect that people on 21 the property would not discover or realize the 22 danger or would fail to protect themselves from such 23 danger; four, that the City was negligent; fifth, 24 that she was injured; and then, sixth, that the</p>
<p style="text-align: right;">Page 35</p> <p>1 ARBITRATOR ROCHE: Okay. So you don't have 2 any other evidence, right?</p> <p>3 MS. LOMAX: No.</p> <p>4 ARBITRATOR ROCHE: All right. Plaintiff 5 rests.</p> <p>6 Ms. Burke, is this a witness you have here 7 or an associate?</p> <p>8 MS. BURKE: This is Joerika. She is our 9 711. So she came with to observe, and soon she is 10 going to be doing these arbs as well.</p> <p>11 ARBITRATOR ROCHE: Okay. So you don't have 12 any witnesses?</p> <p>13 MS. BURKE: No.</p> <p>14 ARBITRATOR ROCHE: You rest?</p> <p>15 MS. BURKE: Yes.</p> <p>16 ARBITRATOR ROCHE: Okay. Both sides rest.</p> <p>17 Ms. Lomax, you can make a closing argument 18 now. Why should the City pay you and how much 19 should they pay you and why?</p> <p>20 CLOSING STATEMENT</p> <p>21 BY MS. LOMAX:</p> <p>22 Okay. The closing argument -- because they 23 were negligent on the sidewalk. The sidewalk was 24 lifted off -- out of the ground, and it was high,</p>	<p style="text-align: right;">Page 37</p> <p>1 City's negligence was the proximate cause of any of 2 her injuries.</p> <p>3 Ms. Lomax testified that this condition was 4 very long and that the slabs weren't flush. The 5 City does not have to keep the sidewalks in perfect 6 condition. She also indicated that she was not 7 looking at the ground. She was looking across the 8 street.</p> <p>9 She also indicated that she fell at 10 6301 South Western. However, when I showed her the 11 photograph of 6301 South Western, she indicated that 12 that's not where she fell. She fell at a different 13 location, and under Zeh you can't change the 14 location without -- you can't prevail if the 15 location changes. And it's beyond the statutory 16 time period to fix it.</p> <p>17 So the City's position is that the City 18 should recover, and we have costs in the amount of 19 \$192 that the City is seeking in this matter. And I 20 have a receipt if you would like to see that.</p> <p>21 ARBITRATOR ROCHE: Itemized as how?</p> <p>22 MS. BURKE: Appearance and jury demand.</p> <p>23 ARBITRATOR ROCHE: Well, what's what?</p> <p>24 MS. BURKE: Well, they're lumped together</p>

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1 for small claims.	1 STATE OF ILLINOIS)	
2 ARBITRATOR ROCHE: So it's just --	2) SS.	
3 MS. BURKE: It's just 192, appearance and	3 COUNTY OF COOK)	
4 jury demand.	4	
5 ARBITRATOR ROCHE: Okay.	5 I, SUZANNE THALJI, CSR, do hereby certify	
6 MS. LOMAX: They never sent me any of that,	6 that I reported in shorthand the proceedings had at	
7 your Honor. I didn't receive anything like that	7 the arbitration aforesaid, and that the foregoing is	
8 from her.	8 a true, complete, and accurate transcript of the	
9 ARBITRATOR ROCHE: Well, they have to pay a	9 proceedings at said arbitration as appears from my	
10 fee just like you paid a fee, right? How much did	10 stenographic notes so taken and transcribed by me on	
11 you pay to file the lawsuit?	11 this 17th day of July, 2018.	
12 MS. LOMAX: Oh, my lawsuit was filed	12	
13 indigent because I'm low income.	13	
14 ARBITRATOR ROCHE: So nothing?	14	
15 MS. LOMAX: Right.	15	
16 ARBITRATOR ROCHE: Okay, fine. Okay. Now,	16	
17 Ms. Lomax, you get the last word. Anything else you	17	
18 want to add?	18 CSR No. 084-002337	
19 CLOSING STATEMENT	19	
20 BY MS. LOMAX:	20	
21 I just want to know why didn't the City	21	
22 pull the footage and, second, Howard -- Landon	22	
23 Howard had gone out to the location --	23	
24 ARBITRATOR ROCHE: Who?	24	
Page 39		
1 MS. LOMAX: Howard -- Landon Howard.		
2 That's the claim specialist that denied me my claim.		
3 They had gone out there to witness, and then he		
4 turned around and denied the claim. So that's my		
5 closing remarks.		
6 ARBITRATOR ROCHE: Okay. All right. Thank		
7 you. Get your documents together. You will get an		
8 award within, I'm sure, 30 minutes or less.		
9 MS. BURKE: Thank you.		
10 MS. LOMAX: Thank you, your Honor.		
11 (Which were all the proceedings had or		
12 offered at said arbitration of the		
13 above-entitled case.)		
14		
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July 30, 2018

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST MUNICIPAL DISTRICT

LINE # _____

Lomax Mattie

v.

Copy of Chicago, Dept. Law
Claims, Howard Landon

CASE NO. 17-111342539

TRIAL ROOM ASSIGNMENT ORDER

IT IS HEREBY ORDERED AS FOLLOWS:

1. All Discovery remains closed in accordance with Supreme Court Rule 89.
2. The cause is assigned to Room 1504 on 2-23 at 9:00 a.m., at which time an Intake and Case Management Conference pursuant to Supreme Court Rule 218 will be conducted and the trial date will be set.
3. All parties pro se, trial lawyers or other appropriate representatives familiar with the facts of the case and authorized to settle the case are required to be present.
4. All motions relating to the conduct of the previous mandatory arbitration shall be presented in Room 1501. All other motions shall be presented in the assigned trial room, and all dispositive motions and initial motions in limine shall be presented at or before the Conference.

Atty. No. _____

Name: _____

Attorney for: _____

City/Zip: _____

Telephone: _____

Judge John A. O'Meara

Enter

JUL 30 2018

Circuit Court - 2164

Judge

Judge's No.

M Gmail

Case# 2017 MI 302539

Touch Of Color <akalomax@gmail.com>

I need footage from a camera on 63rd st and western

2 messages

Touch Of Color <akalomax@gmail.com>
To: cdotfoia@cityofchicago.org

Mon, Mar 19, 2018 at 4:48 PM

Hi, my name is Mattie Lomax,

On September 29, 2017 between the hours of 11:00 am and 11:30 am I feild on the corner of 63rd and western on a big pic of concrete that was lifted from the ground and I hurt myself. Can I get photo of the addicident

Mattie Lomax/
773-359-4190 or cell 773-494-5245

3 attachments

Bus stop at 63rd and western.jpg
910K



side walk lifted up.jpg
789K

s. western ave the other side.pdf
710K

cdotfoia <cdotfoia@cityofchicago.org>
To: Touch Of Color <akalomax@gmail.com>

Tue, Mar 20, 2018 at 2:24 PM

Good Morning Mattie Lomax

This e-mail is in response to your FOIA request for video footage from the intersection of 63rd Western on Sept 29, 2017.

Streaming video is retained for 30 days. Your request is over the 30-day aging cycle. Please note that Section 11-208.6(g) of the Automated Traffic Law Enforcement Systems ("ATLES") statute states that:

4217

Order (Continuance) (This form replaces CCM1 0606 and CCMD 623-2 thru 6)

(1/25/05) CCM N606

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT/ 1st DISTRICT

Nattie Lomay
 Plaintiff(s)

v.

No. 17MI 302 539

City of Chicago
 Defendant(s)

CONTINUANCE ORDER

This matter having come before this Court for ☒ status ☐ pretrial ☐ trial

☒ other: on pending motion for summary judgment

the Court being fully advised;

IT IS HEREBY ORDERED that this matter is continued to 10/4, 2018
 (date)

at 9:00 a.m./p.m. in Room 1504 for:

☐ status (4406) ☐ pretrial (4405) ☐ trial (4482)

☒ other: status on MST and in-take, if necessary

(Please print)

Atty. No.: 9096Name: Barry

Attorney for: _____

Address: 20 W. Alle St. Suite 800City/State/Zip: Chicago, IL 60602Telephone: 312 744 1155

ENTERED:

Dated: _____

Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Copy Distribution - White: 1. ORIGINAL - COURT FILE Canary: 2. COPY Pink: 3. COPY

Order

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Kin #2

1:30

(5)

Matti Komay

v.

No.

2017 MI 302539

City of Chicago, et al

ORDER

This matter coming before this court on the Defendant's motion for summary judgment, due notice being given, all parties being present, it is hereby ordered that Defendant's motion for summary judgment is hereby granted as the condition is found to be open and obvious. City's request for costs is denied. This matter is dismissed with prejudice and off call.

Attorney No.:

90909

Name:

Barbara Burke

Atty. for:

A

Address:

30 N. LaSalle St. Ste. 800

City/State/Zip:

Chicago, IL 60602

Telephone:

312.744.0597

Judge Catherine A. Schneider

ENTERED:

OCT 01 2018

Circuit Court - 2180

Dated:

Judge

Judge's No.

Dec 3, 2018

1-18-2132

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MATTIE LOMAX,
Plaintiff-Appellant,

v.

CITY OF CHICAGO, et al,
Defendant-Appellee.

ORDER

This cause having come before the Court on Plaintiff-Appellant's Application for Waiver of Court Fees, and the Court being advised in the premises;

IT IS HEREBY ORDERED: Plaintiff-Appellant's Application for Waiver of Court Fees is **ALLOWED / DENIED**. Fees are only waived in the Appellate Court.

Enter:

Thomas W. Delort
Justice

ORDER ENTERED

DEC - 5 2018

APPELLATE COURT, FIRST DISTRICT

Justice

Justice

July 18, 2019

2019 IL App (1st) 182132-U

FOURTH DIVISION
July 18, 2019

No. 1-18-2132

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MATTIE LOMAX,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
)	
v.	)	No. 17 M1 302539
)	
CITY OF CHICAGO, a Municipal Corporation,	)	Honorable
	)	Catherine A. Schneider.
Defendant-Appellee.	)	Judge Presiding.

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Reyes and Burke concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court properly granted summary judgment in favor of the City because no legal duty existed where plaintiff was injured due to an open and obvious condition on the sidewalk.
- ¶ 2 Plaintiff Mattie Lomax, appearing *pro se*, filed a small claim action based on allegations of negligence against defendant the City of Chicago (City). Plaintiff alleged that she was injured when she fell on a raised sidewalk slab in September 2017 near West 63rd Street and South Western Avenue after she exited a Chicago Transit Authority (CTA) bus. The parties proceeded



No. 1-18-2132

to arbitration and an award was entered in favor of the City. Plaintiff rejected the arbitration award in the trial court. The City then filed a motion for summary judgment, which the trial court granted.

¶ 3 On appeal, plaintiff, still appearing *pro se*, argues that the trial court erred in granting summary judgment because the distraction exception applies to the open and obvious nature of the raised sidewalk slab.

¶ 4 In December 2017, plaintiff filed her initial small claims negligence complaint against the City of Chicago Law Department Claims Unit and a named claims specialist. In January 2018, the City filed a motion to dismiss the complaint for naming an improper party because the City's law department is not an entity that can be sued separate and apart from the City. The trial court granted the motion and allowed plaintiff 28 days to file an amended complaint.

¶ 5 In February 2018, plaintiff filed her amended complaint against the City in the small claims division of the trial court and alleged negligence. Her complaint alleged that on or about September 29, 2017, between 11 and 11:30 a.m. Plaintiff was exiting the CTA 63rd Street bus at 6301 South Western Avenue. She was

"carefully getting off the 63rd Street bus walking left to cross S. Western Ave trip [sic] and fall on damage sidewalk that was lifted up from the ground, suffering a fracture of her right knee and painful and serious injuries, all as a sole and proximate result of the hazardous conditions of the sidewalk cause by the negligence of the Defendant."

She claimed she sustained a "serious injury to her right knee and has incurred reasonable medical treatments as a result of the fall of the necessary treatment of said injury and reasonable future treatment." Plaintiff sought an award of \$5,000.

No. 1-18-2132

¶ 6 Plaintiff attached several exhibits to her complaint. She included photocopied pictures of the sidewalk as well as a street view image of 6301 South Western Avenue in Chicago from Google Maps with a handwritten notation including an arrow stating, "Here is where the sidewalk was lifted from the ground." Plaintiff also attached her claim form for the City claims unit. Plaintiff further attached her medical records from Advocate Trinity Hospital in Chicago. The records were dated October 6, 2017. The first record related to an injury of plaintiff's right knee and the clinical indication was "contusion about one week ago. Pain." Multiple x-rays of plaintiff's right knee were taken and showed no fracture. The second record involved plaintiff's left shoulder and an indication of "left shoulder pain following injury." Multiple x-rays were taken and showed no fracture, dislocation or significant abnormality.

¶ 7. The case was set for mandatory arbitration. An arbitration hearing took place on June 25, 2018. Plaintiff was the only witness at the hearing. She testified that on September 29, 2017, she was on 63rd Street going towards Western Avenue while on a CTA bus. She exited the bus and was pulling her bag. She then "just, boom, *** fell down." Plaintiff tried to show the arbitrators a picture of the sidewalk she obtained from Google Maps. Plaintiff stated that the address where she fell was 6301 South Western Avenue. She estimated that she was two feet from the curb when she fell. She had exited the bus and "had turned to start walking, boom [she] just fell completely down." Plaintiff "was looking towards Western trying to cross the street and catch the next bus down to 95th." She was walking normally and not in a hurry. When asked if she was distracted, plaintiff answered, "No." Plaintiff had a small rolling bag in her right hand. No one was in front of her blocking her view of the sidewalk and it was daytime and a "nice day." She was wearing rubber-soled "sneakers."

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¶ 8 Plaintiff testified that she was "not very familiar with that area," and estimated she had been to that location six times that year. Plaintiff admitted that she was aware of the City's 311 system. She did not report any defects at 63rd and Western before she fell and was not aware of anyone else contacting 311 prior to her fall. She did not see any construction.

¶ 9 Plaintiff stated that she was closer to Western. She estimated that she took two steps after she exited the bus before she fell. She did not realize there was a height differential in the sidewalk slab until she fell. She did not measure it, but estimated it was more than one inch and less than two inches lifted from the ground and it was approximately five feet long. There was nothing covering the sidewalk that would block her view. When she looked at the sidewalk after she fell, she stated that it looked like something she should avoid because "[n]o one should walk over that." Plaintiff admitted she was not looking down and thought "it was just a smooth sidewalk." When she fell, everything came "down." Two women standing nearby asked if she wanted them to call the paramedics and plaintiff said no. Plaintiff estimated she was at that location approximately 15 minutes. Plaintiff got up, crossed the street, and proceeded to take the Western bus southbound. Plaintiff went to her original planned destination, a bike shop to fix a tire. She then went home by bus.

¶ 10 After she got home, plaintiff started "feeling funny," and "things started to hurt." She called the doctor and she went to get x-rays a few days later. She has not sought any further treatment. She had not injured her right knee before or been involved in any other accident.

¶ 11 Following the hearing, the arbitrators entered an award in favor of the City. In July 2018, plaintiff filed a rejection of that arbitrators' award and requested trial. On July 24, 2018, the City filed a motion for summary judgment, arguing that the sidewalk condition was open and obvious and that the City did not have actual or constructive notice of the condition. In August 2018,

No. 1-18-2132

plaintiff filed a motion to strike the City's motion for summary judgment, and in September 2018, the City filed a response to plaintiff's motion. In October 2018, plaintiff filed another motion to strike the City's motion for summary judgment and also requested summary judgment in her favor. In her motion, plaintiff for the first time argued for a finding of willful and wanton conduct. She also asserted that the distraction exception applied to the open and obvious doctrine regarding the sidewalk where she fell. On October 1, 2018, the trial court granted the City's motion for summary judgment and found the sidewalk condition to be open and obvious.

¶ 12 This appeal followed in compliance with Illinois Supreme Court Rule 303 (eff. Jan. 1, 2015) with a timely notice of appeal filed on October 1, 2018. Accordingly, this court has jurisdiction of this appeal under Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994).

¶ 13 On appeal, plaintiff argues that the trial court erred in granting summary judgment because the distraction exception applied when she encountered the open and obvious condition of the sidewalk. Plaintiff also contends that the City improperly raised section 2-201 of the Local Governmental and Governmental Employees Tort Immunity Act (Tort Immunity Act) (745 ILCS 10/2-201 (West 2016)) in their summary judgment motion for the first time. However, the City did not raise any argument related to section 2-201 of the Tort Immunity Act in the trial court, nor has it raised such an argument on appeal. Accordingly, we disregard any argument by plaintiff related to this section of the Tort Immunity Act.

¶ 14 Summary judgment is appropriate where the pleadings, depositions, and admissions on file, together with any affidavits and exhibits, when viewed in the light most favorable to the nonmoving party, indicate that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c) (West 2016). We review cases

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involving summary judgment *de novo*. *Ragan v. Columbia Mutual Insurance Co.*, 183 Ill. 2d 342, 349 (1998).

¶ 15 “To state a cause of action for negligence, a complaint must allege facts that establish the existence of a duty of care owed by the defendant to the plaintiff, a breach of that duty, and an injury proximately caused by that breach.” *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 430 (2006). “The question of the existence of a duty is a question of law, and in determining whether a duty exists, the trial court considers whether a relationship existed between the parties that imposed a legal obligation upon one party for the benefit of the other party.” *Sameer v. Butt*, 343 Ill. App. 3d 78, 85 (2003). In contrast, “whether a defendant breached the duty and whether the breach was the proximate cause of the plaintiff’s injuries are factual matters for the jury to decide, provided there is a genuine issue of material fact regarding those issues.” *Marshall*, 222 Ill. 2d at 430. “ ‘In the absence of a showing from which the court could infer the existence of a duty, no recovery by the plaintiff is possible as a matter of law and summary judgment in favor of the defendant is proper.’ ” *Bruns v. City of Centralia*, 2014 IL 116998, ¶ 13 (quoting *Vesey v. Chicago Housing Authority*, 145 Ill. 2d 404, 411 (1991)).

¶ 16 Under section 3-102(a) of the Tort Immunity Act, a local public entity has “the duty to exercise ordinary care to maintain its property in a reasonably safe condition” for use by intended and permitted users. 745 ILCS 10/3-102(a) (West 2016). There are four factors to consider in a duty analysis: “(1) the reasonable foreseeability of the injury, (2) the likelihood of the injury, (3) the magnitude of the burden of guarding against the injury, and (4) the consequences of placing that burden on the defendant.” *Bruns*, 2014 IL 116998, ¶ 14. “A legal duty refers to a relationship between the defendant and the plaintiff such that the law imposes on the defendant an obligation of reasonable conduct for the benefit of the plaintiff.” *Choate v.*

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Indiana Harbor Belt Railroad Co., 2012 IL 112948, ¶ 22.

¶ 17 Generally, under the open and obvious rule, " 'a party who owns or controls land is not required to foresee and protect against an injury if the potentially dangerous condition is open and obvious.' " *Bruns*, 2014 IL 116998, ¶ 16 (quoting *Rexroad v. City of Springfield*, 207 Ill. 2d 33, 44 (2003)). "The open and obvious rule is also reflected in section 343A of the Restatement (Second) of Torts, which this court has adopted." *Id.* "Under section 343A, a 'possessor of land is not liable to his invitees for physical harm caused to them by any activity or condition on the land whose danger is known or obvious to them.' " *Id.* (quoting Restatement (Second) of Torts § 343A, at 218 (1965)). " 'Obvious' means that 'both the condition and the risk are apparent to and would be recognized by a reasonable [person], in the position of the visitor, exercising ordinary perception, intelligence, and judgment.' " *Id.* (quoting Restatement (Second) of Torts § 343A cmt. b, at 219 (1965)). "Whether a dangerous condition is open and obvious may present a question of fact," but "where no dispute exists as to the physical nature of the condition, whether the dangerous condition is open and obvious is a question of law." *Id.* ¶ 18. However, "[t]he existence of an open and obvious danger is not an automatic or *per se* bar to the finding of a legal duty on the part of a defendant." *Id.* ¶ 19.

¶ 18 On the day of her fall, plaintiff had exited the 63rd Street bus and walked approximately two steps before she tripped over the raised sidewalk slab. She testified at the arbitration hearing that it was daytime and nothing was blocking her view of the sidewalk. Plaintiff does not dispute that the raised sidewalk slab was open and obvious. She submitted photographs of the slab and described it as being raised more than one inch, but less than two inches and approximately five feet long. However, she contends that she was distracted and did not see the open and obvious condition of the sidewalk.

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¶ 19 The distraction exception to the open and obvious rule “applies ‘ “where the possessor of land has reason to expect that the invitee’s attention may be distracted, so that he will not discover what is obvious, or will forget what he has discovered, or fail to protect himself against it.” ‘ ” *Bruns*, 2014 IL 116998, ¶ 20 (quoting *Sollami v. Eaton*, 201 Ill. 2d 1, 15 (2002), quoting Restatement (Second) of Torts § 343A cmt. f, at 220 (1965)). “[T]he distraction exception will only apply where evidence exists from which a court can infer that plaintiff was actually distracted.” *Id.* ¶ 22.

¶ 20 In *Bruns*, the plaintiff was going to an appointment at an eye clinic when she stubbed her toe on a raised crack on a city-maintained sidewalk, causing her to fall. *Id.* ¶ 4. At the time of her fall, the plaintiff was not looking down at her feet, but was looking toward the clinic’s steps and door. *Id.* The plaintiff admitted that she had seen the crack on prior visits and was certain that she saw it on the day of her fall. *Id.* The plaintiff filed a negligence action against the city. *Id.* The city filed its motion for summary judgment arguing that the sidewalk defect was open and obvious, and that it was therefore not required to foresee and protect against injuries resulting from the defect. *Id.* In answer to the motion, the plaintiff argued that she was distracted because she was looking at the clinic door, and that it was reasonable for the city to foresee that a person could become distracted in this manner. *Id.* ¶ 7. In granting summary judgment, the trial court concluded that the defect was open and obvious and that the distraction theory was inapplicable. *Id.* ¶ 8. The appellate court reversed the grant of summary judgment. *Id.* ¶ 13.

¶ 21 The supreme court reversed the appellate court, finding that that the distraction theory only applies when there is evidence from which the court can infer that the plaintiff was actually distracted, and that the “mere fact of looking elsewhere does not constitute a distraction.” *Id.*

¶ 22. The supreme court also noted the circumstances in which the distraction exception had

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been found applicable. *Id.* ¶¶ 24-27; see *Ward v. Kmart Corp.*, 136 Ill.2d 132, 153-54 (1990) (Kmart sold the plaintiff bulky merchandise that obscured his view and prevented him from walking into a five-foot concrete post outside the entrance of the store); *Deibert v. Bauer Brothers Construction Co.*, 141 Ill. 2d 430, 439-40 (1990) (plaintiff fell in a heavy equipment tire rut when exiting a bathroom because he was looking upward to ensure that workers were not throwing debris down from a balcony as the workers had historically done on this project); *American National Bank & Trust Co. of Chicago v. National Advertising Co.*, 149 Ill. 2d 14, 28-29 (1992) (billboard painter who came into contact with a high-voltage power line hanging above a walkrail that ran the length of the billboard was distracted by having to carefully watch where to place his feet on the walkrail); *Rexroad v. City of Springfield*, 207 Ill. 2d 33, 46 (2003) (student manager of a football team instructed by a coach to retrieve a helmet in the locker room, and forced to return using a different path because the original access gate was locked, was focused on returning the helmet to the coach and was distracted from a large hole in this alternate path to the field).

¶ 22 Here, plaintiff contends that she was distracted “while getting off a public bus pulling a bag.” However, at the arbitration hearing, plaintiff admitted that she was looking toward Western because she planned to cross to catch a bus. She has not identified any hazard that prevented her from seeing the raised sidewalk slab. As the *Bruns* court held, the “mere fact of looking elsewhere does not constitute a distraction.” *Bruns*, 2014 IL 116998, ¶ 22. This case is similar to the circumstances present in *Bruns* like the plaintiff there, plaintiff in this case was looking at Western rather than the sidewalk. In rejecting the plaintiff’s distraction claim, the supreme court in *Bruns* observed:

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"In the absence of evidence of an actual distraction, we disagree with plaintiff that it was objectively reasonable for the City to expect that a pedestrian, generally exercising reasonable care for her own safety, would look elsewhere and fail to avoid the risk of injury from an open and obvious sidewalk defect. The plaintiff's position is contrary to the very essence of the open and obvious rule: because the risks are obvious, the defendant ' "could not reasonably be expected to anticipate that people will fail to protect themselves from any danger posed by the condition." ' *Bucheleres [v. Chicago Park District]*, 171 Ill. 2d [435,] 448 [1996] (quoting *Ward*, 136 Ill. 2d at 148). Were we to conclude, as plaintiff does, that simply looking elsewhere constitutes a legal distraction, then the open and obvious rule would be upended and the distraction exception would swallow the rule."

¶ 23 We also find the circumstances in the present case analogous to the facts presented in *Negron v. City of Chicago*, 2016 IL App (1st) 143432. In that case, the plaintiff was walking on the south side of Division Street in Chicago. There was a crowd in the area. She heard someone yell behind her and she looked over her shoulder as she continued to walk. A few steps later, the plaintiff tripped over a section of sidewalk that had a two-inch height differential from the adjacent slabs. The weather was clear, it was still light out, and nothing obstructed her view of the sidewalk. She fell and fractured both elbows. *Id.* ¶¶ 1-5. The plaintiff then filed a negligence action against the City and alleged that she was injured because the City failed to maintain the sidewalk. *Id.* ¶ 6. The city moved for summary judgment. *Id.* After arguments, the trial court granted summary judgment, finding that the sidewalk defect was open and obvious and the plaintiff's claimed distraction exception was not reasonably foreseeable. *Id.* ¶ 10.

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¶ 24 On appeal, the reviewing court concluded that the distraction exception was not applicable to the plaintiff's case. The court noted that the City "did not create or contribute to the distraction that caused" the plaintiff's accident. *Id.* ¶ 20. "A defendant that either creates or contributes to a distraction will typically have reason to know it exists." *Id.* "Conversely, where a defendant bears no responsibility for a distraction, courts frequently find that the defendant could not reasonably have foreseen it." *Id.* The court then rejected the plaintiff's contentions that a distraction was reasonable foreseeable. *Id.* ¶¶ 22-26. "None of [the plaintiff's] arguments persuades us that the city could reasonably have anticipated the distraction that caused [the plaintiff's] injury, and, therefore, the open-and-obvious doctrine applies." *Id.* ¶ 26.

¶ 25 The same reasoning from *Bruns* and *Negron* hold true here. Plaintiff's arbitration testimony that she was looking toward Western Avenue does not constitute a legal distraction from the open and obvious rule, nor does her argument on appeal that she was distracted because she was pulling her bag. We conclude that the distraction exception to the open and obvious rule does not apply in this case. However, application of the open and obvious doctrine does not end the inquiry as to whether the premises owner or occupier owes a duty of due care. *Bruns*, 2014 IL 116998, ¶ 35. Accordingly, we must consider the four factors referenced earlier in this order: "(1) the reasonable foreseeability of injury, (2) the reasonable likelihood of injury, (3) the magnitude of the burden that guarding against injury places on the defendant, and (4) the consequences of placing that burden on the defendant." *Id.*

¶ 26 "Application of the open and obvious rule affects the first two factors of the duty analysis: the foreseeability of injury, and the likelihood of injury." *Id.* "Where the condition is open and obvious, the foreseeability of harm and the likelihood of injury will be slight, thus weighing against the imposition of a duty." *Id.* The supreme court in *Bruns* found that the first

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two factors carried little weight. "The first factor carries little weight because a defendant is ordinarily not required to foresee injury from a dangerous condition that is open and obvious." *Id.* ¶ 36. "The second factor also carries little weight because 'it is assumed that persons encountering the potentially dangerous condition of the land will appreciate and avoid the risks,' making the likelihood of injury slight." *Id.* (quoting *Sollami*, 201 Ill. 2d at 17). In reviewing the third and fourth factors, the supreme court observed that "the consequences of imposing that burden on the City would go well beyond the instant sidewalk defect. The City has miles of sidewalk to maintain. The imposition of this burden is not justified given the open and obvious nature of the risk involved." *Id.* ¶ 37.

¶ 27 Similarly, in considering where the City owed the plaintiff a duty of care, the *Negron* court concluded that the burden against the City was significant.

"Because the distraction in this case was not reasonably foreseeable, the likelihood of injury from the open and obvious sidewalk defect was correspondingly low. Furthermore, the burden of guarding against such injury would be extremely high. The city has miles of sidewalk to maintain. Protecting pedestrians from random distracting noises on a city-wide basis would impose an unreasonable burden upon the city." *Negron*, 2016 IL App (1st) 143432, ¶ 26.

¶ 28 We agree with the conclusions in *Bruns* and *Negron* regarding the duty of care to plaintiff. As discussed in *Bruns*, the first two factors carry little weight where the condition is open and obvious as it is not reasonably foreseeable that one would fail to avoid encountering an open and obvious condition on the sidewalk. In regard to the third and fourth factors, we find the magnitude of the burden on the City to prevent any injury would be "extremely high" and nearly impossible to achieve. Accordingly, we hold that the City had no duty to protect plaintiff from

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the open and obvious sidewalk defect. Therefore, the trial court properly granted summary judgment in favor of the City.

¶ 29 Based on the foregoing reasons, we affirm the decision of the circuit court of Cook County.

¶ 30 Affirmed.

April 1, 19

No. 18-2132

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MATTIE LOMAX,

Plaintiff-Appellant,

v.

CITY OF CHICAGO,

Defendant-Appellee.

) Appeal from the Circuit Court of
) Cook County, Illinois,
) Municipal Department
)
) No. 2017 M1 302539
)
) The Honorable
) Catherine A. Schneider,
) Judge Presiding

ORDER

On motion of the CITY OF CHICAGO for an extension of time to file its brief on or before May 9, 2019, due notice having been served, for good cause shown and the court being fully advised;

IT IS HEREBY ORDERED that the motion is granted ~~denied~~.

Thomas W. Delort
JUSTICE

JUSTICE

JUSTICE

DATED:

Stephen Collins
Assistant Corporation Counsel
30 North LaSalle St, Suite 800
Chicago, Illinois 60602
Direct: (312) 742-0115
stephen.collins@cityofchicago.org
appeals@cityofchicago.org

ORDER ENTERED

APR 01 2019

APPELLATE COURT FIRST DISTRICT

Sept 9, 2019



CLERK'S OFFICE
APPELLATE COURT FIRST DISTRICT
STATE OF ILLINOIS
160 NORTH LA SALLE STREET, ROOM 5100
CHICAGO, ILLINOIS 60601

212-793-5484

September 9, 2019

Honorable Dorothy Brown
Richard J. Daley Center
Room 1001
Chicago, IL 60602

RE: MATTIE LOMAX v. CITY OF CHICAGO
General No.: 1-18-2132
County: Cook County
Trial Court No: 17M1302539

Dear Honorable Brown:

Attached is the Mandate of the Appellate Court in the above entitled cause.

We are sending the attorneys of record a copy of this letter to inform them that the mandate of the Appellate Court has been filed with you.

Thomas D. Palella
Clerk of the Appellate Court

c: Corporation Counsel of Chicago
Mattie Lomax

April 1, 19

No. 18-2132

**IN THE
APPELLATE COURT OF ILLINOIS
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MATTIE LOMAX,

Plaintiff-Appellant,

v.

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ORDER

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JUSTICE

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DATED:

Stephen Collins
Assistant Corporation Counsel
30 North LaSalle St, Suite 800
Chicago, Illinois 60602
Direct: (312) 742-0115
stephen.collins@cityofchicago.org
appeals@cityofchicago.org

ORDER ENTERED

APR 01 2019

APPELLATE COURT FIRST DISTRICT

No. 1-18-2132

**In the
Appellate Court of Illinois
First Judicial District - Sixth Division**

MATTIE LOMAX,

Plaintiff-Appellant,

v.

CITY OF CHICAGO,

Defendant-Appellee.

Appeal from the
Circuit Court of Cook County.

No. 17 M1 302539

Honorable Catherine Schneider,
Judge Presiding.

ORDER

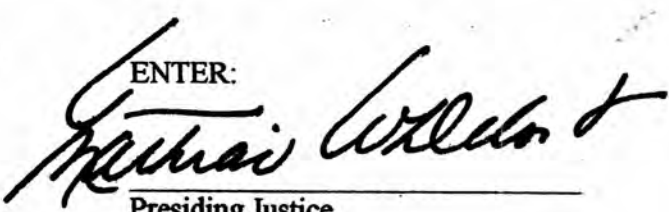
This case comes before the court on the plaintiff-appellant's motion filed December 27, 2018, and the City of Chicago's objection thereto. The motion is entitled a motion for leave to file the record *instantly*, but the text of the motion asks for an immediate judgment. The clerk of this court has advised that there is no record "in the queue" waiting to be filed.

The plaintiff-appellant was required to file the record before December 3, 2018. The plaintiff-appellant is required to secure preparation of the record by the Clerk of the Circuit Court so that it can be filed electronically with this court. Additionally, this court will not consider whether the judgment below should be reversed until after the record has been filed and the parties have had the opportunity to file briefs in support of their positions.

This court hereby ORDERS:

1. The motion is DENIED.
2. On the court's own motion, the deadline for plaintiff-appellant to file the record is extended to February 8, 2019.

ENTER:


Presiding Justice

ORDER ENTERED

JAN 03 2019

APPELLATE COURT, FIRST DISTRICT

July 18, 2019

2019 IL App (1st) 182132-U

FOURTH DIVISION
July 18, 2019

No. 1-18-2132

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MATTIE LOMAX,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
)	
v.)	
	)	No. 17 M1 302539
CITY OF CHICAGO, a Municipal Corporation,)	
	)	Honorable
Defendant-Appellee.	)	Catherine A. Schneider,
	)	Judge Presiding.

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Reyes and Burke concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court properly granted summary judgment in favor of the City because no legal duty existed where plaintiff was injured due to an open and obvious condition on the sidewalk.
- ¶ 2 Plaintiff Mattie Lomax, appearing *pro se*, filed a small claim action based on allegations of negligence against defendant the City of Chicago (City). Plaintiff alleged that she was injured when she fell on a raised sidewalk slab in September 2017 near West 63rd Street and South Western Avenue after she exited a Chicago Transit Authority (CTA) bus. The parties proceeded



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to arbitration and an award was entered in favor of the City. Plaintiff rejected the arbitration award in the trial court. The City then filed a motion for summary judgment, which the trial court granted.

¶ 3 On appeal, plaintiff, still appearing *pro se*, argues that the trial court erred in granting summary judgment because the distraction exception applies to the open and obvious nature of the raised sidewalk slab.

¶ 4 In December 2017, plaintiff filed her initial small claims negligence complaint against the City of Chicago Law Department Claims Unit and a named claims specialist. In January 2018, the City filed a motion to dismiss the complaint for naming an improper party because the City's law department is not an entity that can be sued separate and apart from the City. The trial court granted the motion and allowed plaintiff 28 days to file an amended complaint.

¶ 5 In February 2018, plaintiff filed her amended complaint against the City in the small claims division of the trial court and alleged negligence. Her complaint alleged that on or about September 29, 2017, between 11 and 11:30 a.m. Plaintiff was exiting the CTA 63rd Street bus at 6301 South Western Avenue. She was

"carefully getting off the 63rd Street bus walking left to cross S. Western Ave trip [sic] and fall on damage sidewalk that was lifted up from the ground, suffering a fracture of her right knee and painful and serious injuries, all as a sole and proximate result of the hazardous conditions of the sidewalk cause by the negligence of the Defendant."

She claimed she sustained a "serious injury to her right knee and has incurred reasonable medical treatments as a result of the fall of the necessary treatment of said injury and reasonable future treatment." Plaintiff sought an award of \$5,000.

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¶ 6 Plaintiff attached several exhibits to her complaint. She included photocopied pictures of the sidewalk as well as a street view image of 6301 South Western Avenue in Chicago from Google Maps with a handwritten notation including an arrow stating, "Here is where the sidewalk was lifted from the ground." Plaintiff also attached her claim form for the City claims unit. Plaintiff further attached her medical records from Advocate Trinity Hospital in Chicago. The records were dated October 6, 2017. The first record related to an injury of plaintiff's right knee and the clinical indication was "contusion about one week ago. Pain." Multiple x-rays of plaintiff's right knee were taken and showed no fracture. The second record involved plaintiff's left shoulder and an indication of "left shoulder pain following injury." Multiple x-rays were taken and showed no fracture, dislocation or significant abnormality.

¶ 7. The case was set for mandatory arbitration. An arbitration hearing took place on June 25, 2018. Plaintiff was the only witness at the hearing. She testified that on September 29, 2017, she was on 63rd Street going towards Western Avenue while on a CTA bus. She exited the bus and was pulling her bag. She then "just, boom, *** fell down." Plaintiff tried to show the arbitrators a picture of the sidewalk she obtained from Google Maps. Plaintiff stated that the address where she fell was 6301 South Western Avenue. She estimated that she was two feet from the curb when she fell. She had exited the bus and "had turned to start walking, boom [she] just fell completely down." Plaintiff "was looking towards Western trying to cross the street and catch the next bus down to 95th." She was walking normally and not in a hurry. When asked if she was distracted, plaintiff answered, "No." Plaintiff had a small rolling bag in her right hand. No one was in front of her blocking her view of the sidewalk and it was daytime and a "nice day." She was wearing rubber-soled "sneakers."

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¶ 8 Plaintiff testified that she was "not very familiar with that area," and estimated she had been to that location six times that year. Plaintiff admitted that she was aware of the City's 311 system. She did not report any defects at 63rd and Western before she fell and was not aware of anyone else contacting 311 prior to her fall. She did not see any construction.

¶ 9 Plaintiff stated that she was closer to Western. She estimated that she took two steps after she exited the bus before she fell. She did not realize there was a height differential in the sidewalk slab until she fell. She did not measure it, but estimated it was more than one inch and less than two inches lifted from the ground and it was approximately five feet long. There was nothing covering the sidewalk that would block her view. When she looked at the sidewalk after she fell, she stated that it looked like something she should avoid because "[n]o one should walk over that." Plaintiff admitted she was not looking down and thought "it was just a smooth sidewalk." When she fell, everything came "down." Two women standing nearby asked if she wanted them to call the paramedics and plaintiff said no. Plaintiff estimated she was at that location approximately 15 minutes. Plaintiff got up, crossed the street, and proceeded to take the Western bus southbound. Plaintiff went to her original planned destination, a bike shop to fix a tire. She then went home by bus.

¶ 10 After she got home, plaintiff started "feeling funny," and "things started to hurt." She called the doctor and she went to get x-rays a few days later. She has not sought any further treatment. She had not injured her right knee before or been involved in any other accident.

¶ 11 Following the hearing, the arbitrators entered an award in favor of the City. In July 2018, plaintiff filed a rejection of that arbitrators' award and requested trial. On July 24, 2018, the City filed a motion for summary judgment, arguing that the sidewalk condition was open and obvious and that the City did not have actual or constructive notice of the condition. In August 2018,

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plaintiff filed a motion to strike the City's motion for summary judgment, and in September 2018, the City filed a response to plaintiff's motion. In October 2018, plaintiff filed another motion to strike the City's motion for summary judgment and also requested summary judgment in her favor. In her motion, plaintiff for the first time argued for a finding of willful and wanton conduct. She also asserted that the distraction exception applied to the open and obvious doctrine regarding the sidewalk where she fell. On October 1, 2018, the trial court granted the City's motion for summary judgment and found the sidewalk condition to be open and obvious.

¶ 12 This appeal followed in compliance with Illinois Supreme Court Rule 303 (eff. Jan. 1, 2015) with a timely notice of appeal filed on October 1, 2018. Accordingly, this court has jurisdiction of this appeal under Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994).

¶ 13 On appeal, plaintiff argues that the trial court erred in granting summary judgment because the distraction exception applied when she encountered the open and obvious condition of the sidewalk. Plaintiff also contends that the City improperly raised section 2-201 of the Local Governmental and Governmental Employees Tort Immunity Act (Tort Immunity Act) (745 ILCS 10/2-201 (West 2016)) in their summary judgment motion for the first time. However, the City did not raise any argument related to section 2-201 of the Tort Immunity Act in the trial court, nor has it raised such an argument on appeal. Accordingly, we disregard any argument by plaintiff related to this section of the Tort Immunity Act.

¶ 14 Summary judgment is appropriate where the pleadings, depositions, and admissions on file, together with any affidavits and exhibits, when viewed in the light most favorable to the nonmoving party, indicate that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c) (West 2016). We review cases

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involving summary judgment *de novo*. *Ragan v. Columbia Mutual Insurance Co.*, 183 Ill. 2d 342, 349 (1998).

¶ 15 "To state a cause of action for negligence, a complaint must allege facts that establish the existence of a duty of care owed by the defendant to the plaintiff, a breach of that duty, and an injury proximately caused by that breach." *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 430 (2006). "The question of the existence of a duty is a question of law, and in determining whether a duty exists, the trial court considers whether a relationship existed between the parties that imposed a legal obligation upon one party for the benefit of the other party." *Sameer v. Butt*, 343 Ill. App. 3d 78, 85 (2003). In contrast, "whether a defendant breached the duty and whether the breach was the proximate cause of the plaintiff's injuries are factual matters for the jury to decide, provided there is a genuine issue of material fact regarding those issues." *Marshall*, 222 Ill. 2d at 430. " 'In the absence of a showing from which the court could infer the existence of a duty, no recovery by the plaintiff is possible as a matter of law and summary judgment in favor of the defendant is proper.' " *Bruns v. City of Centralia*, 2014 IL 116998, ¶ 13 (quoting *Vasey v. Chicago Housing Authority*, 145 Ill. 2d 404, 411 (1991)).

¶ 16 Under section 3-102(a) of the Tort Immunity Act, a local public entity has "the duty to exercise ordinary care to maintain its property in a reasonably safe condition" for use by intended and permitted users. 745 ILCS 10/3-102(a) (West 2016). There are four factors to consider in a duty analysis: "(1) the reasonable foreseeability of the injury, (2) the likelihood of the injury, (3) the magnitude of the burden of guarding against the injury, and (4) the consequences of placing that burden on the defendant." *Bruns*, 2014 IL 116998, ¶ 14. "A legal duty refers to a relationship between the defendant and the plaintiff such that the law imposes on the defendant an obligation of reasonable conduct for the benefit of the plaintiff." *Choate v.*

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¶ 18 On the day of her fall, plaintiff had exited the 63rd Street bus and walked approximately two steps before she tripped over the raised sidewalk slab. She testified at the arbitration hearing that it was daytime and nothing was blocking her view of the sidewalk. Plaintiff does not dispute that the raised sidewalk slab was open and obvious. She submitted photographs of the slab and described it as being raised more than one inch, but less than two inches and approximately five feet long. However, she contends that she was distracted and did not see the open and obvious condition of the sidewalk.

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¶ 19 The distraction exception to the open and obvious rule “applies ‘ “where the possessor of land has reason to expect that the invitee’s attention may be distracted, so that he will not discover what is obvious, or will forget what he has discovered, or fail to protect himself against it.” ‘ ” *Bruns*, 2014 IL 116998, ¶ 20 (quoting *Sollami v. Eaton*, 201 Ill. 2d 1, 15 (2002), quoting Restatement (Second) of Torts § 343A cmt. f, at 220 (1965)). “[T]he distraction exception will only apply where evidence exists from which a court can infer that plaintiff was actually distracted.” *Id.* ¶ 22.

¶ 20 In *Bruns*, the plaintiff was going to an appointment at an eye clinic when she stubbed her toe on a raised crack on a city-maintained sidewalk, causing her to fall. *Id.* ¶ 4. At the time of her fall, the plaintiff was not looking down at her feet, but was looking toward the clinic’s steps and door. *Id.* The plaintiff admitted that she had seen the crack on prior visits and was certain that she saw it on the day of her fall. *Id.* The plaintiff filed a negligence action against the city. *Id.* The city filed its motion for summary judgment arguing that the sidewalk defect was open and obvious, and that it was therefore not required to foresee and protect against injuries resulting from the defect. *Id.* In answer to the motion, the plaintiff argued that she was distracted because she was looking at the clinic door, and that it was reasonable for the city to foresee that a person could become distracted in this manner. *Id.* ¶ 7. In granting summary judgment, the trial court concluded that the defect was open and obvious and that the distraction theory was inapplicable. *Id.* ¶ 8. The appellate court reversed the grant of summary judgment. *Id.* ¶ 13.

¶ 21 The supreme court reversed the appellate court, finding that that the distraction theory only applies when there is evidence from which the court can infer that the plaintiff was actually distracted, and that the “mere fact of looking elsewhere does not constitute a distraction.” *Id.*

¶ 22. The supreme court also noted the circumstances in which the distraction exception had

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been found applicable. *Id.* ¶¶ 24-27; see *Ward v. Kmart Corp.*, 136 Ill.2d 132, 153-54 (1990) (Kmart sold the plaintiff bulky merchandise that obscured his view and prevented him from walking into a five-foot concrete post outside the entrance of the store); *Deibert v. Bauer Brothers Construction Co.*, 141 Ill. 2d 430, 439-40 (1990) (plaintiff fell in a heavy equipment tire rut when exiting a bathroom because he was looking upward to ensure that workers were not throwing debris down from a balcony as the workers had historically done on this project); *American National Bank & Trust Co. of Chicago v. National Advertising Co.*, 149 Ill. 2d 14, 28-29 (1992) (billboard painter who came into contact with a high-voltage power line hanging above a walkrail that ran the length of the billboard was distracted by having to carefully watch where to place his feet on the walkrail); *Rexroad v. City of Springfield*, 207 Ill. 2d 33, 46 (2003) (student manager of a football team instructed by a coach to retrieve a helmet in the locker room, and forced to return using a different path because the original access gate was locked, was focused on returning the helmet to the coach and was distracted from a large hole in this alternate path to the field).

¶ 22 Here, plaintiff contends that she was distracted “while getting off a public bus pulling a bag.” However, at the arbitration hearing, plaintiff admitted that she was looking toward Western because she planned to cross to catch a bus. She has not identified any hazard that prevented her from seeing the raised sidewalk slab. As the *Bruns* court held, the “mere fact of looking elsewhere does not constitute a distraction.” *Bruns*, 2014 IL 116998, ¶ 22. This case is similar to the circumstances present in *Bruns* like the plaintiff there, plaintiff in this case was looking at Western rather than the sidewalk. In rejecting the plaintiff’s distraction claim, the supreme court in *Bruns* observed:

No. 1-18-2132

"In the absence of evidence of an actual distraction, we disagree with plaintiff that it was objectively reasonable for the City to expect that a pedestrian, generally exercising reasonable care for her own safety, would look elsewhere and fail to avoid the risk of injury from an open and obvious sidewalk defect. The plaintiff's position is contrary to the very essence of the open and obvious rule: because the risks are obvious, the defendant ' "could not reasonably be expected to anticipate that people will fail to protect themselves from any danger posed by the condition." ' *Bucheleres [v. Chicago Park District]*, 171 Ill. 2d [435,] 448 [1996] (quoting *Ward*, 136 Ill. 2d at 148). Were we to conclude, as plaintiff does, that simply looking elsewhere constitutes a legal distraction, then the open and obvious rule would be upended and the distraction exception would swallow the rule."

¶ 23 We also find the circumstances in the present case analogous to the facts presented in *Negron v. City of Chicago*, 2016 IL App (1st) 143432. In that case, the plaintiff was walking on the south side of Division Street in Chicago. There was a crowd in the area. She heard someone yell behind her and she looked over her shoulder as she continued to walk. A few steps later, the plaintiff tripped over a section of sidewalk that had a two-inch height differential from the adjacent slabs. The weather was clear, it was still light out, and nothing obstructed her view of the sidewalk. She fell and fractured both elbows. *Id.* ¶¶ 1-5. The plaintiff then filed a negligence action against the City and alleged that she was injured because the City failed to maintain the sidewalk. *Id.* ¶ 6. The city moved for summary judgment. *Id.* After arguments, the trial court granted summary judgment, finding that the sidewalk defect was open and obvious and the plaintiff's claimed distraction exception was not reasonably foreseeable. *Id.* ¶ 10.

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¶ 24 On appeal, the reviewing court concluded that the distraction exception was not applicable to the plaintiff's case. The court noted that the City "did not create or contribute to the distraction that caused" the plaintiff's accident. *Id.* ¶ 20. "A defendant that either creates or contributes to a distraction will typically have reason to know it exists." *Id.* "Conversely, where a defendant bears no responsibility for a distraction, courts frequently find that the defendant could not reasonably have foreseen it." *Id.* The court then rejected the plaintiff's contentions that a distraction was reasonable foreseeable. *Id.* ¶¶ 22-26. "None of [the plaintiff's] arguments persuades us that the city could reasonably have anticipated the distraction that caused [the plaintiff's] injury, and, therefore, the open-and-obvious doctrine applies." *Id.* ¶ 26.

¶ 25 The same reasoning from *Bruns* and *Negron* hold true here. Plaintiff's arbitration testimony that she was looking toward Western Avenue does not constitute a legal distraction from the open and obvious rule, nor does her argument on appeal that she was distracted because she was pulling her bag. We conclude that the distraction exception to the open and obvious rule does not apply in this case. However, application of the open and obvious doctrine does not end the inquiry as to whether the premises owner or occupier owes a duty of due care. *Bruns*, 2014 IL 116998, ¶ 35. Accordingly, we must consider the four factors referenced earlier in this order: "(1) the reasonable foreseeability of injury, (2) the reasonable likelihood of injury, (3) the magnitude of the burden that guarding against injury places on the defendant, and (4) the consequences of placing that burden on the defendant." *Id.*

¶ 26 "Application of the open and obvious rule affects the first two factors of the duty analysis: the foreseeability of injury, and the likelihood of injury." *Id.* "Where the condition is open and obvious, the foreseeability of harm and the likelihood of injury will be slight, thus weighing against the imposition of a duty." *Id.* The supreme court in *Bruns* found that the first

No. 1-18-2132

two factors carried little weight. "The first factor carries little weight because a defendant is ordinarily not required to foresee injury from a dangerous condition that is open and obvious." *Id.* ¶ 36. "The second factor also carries little weight because 'it is assumed that persons encountering the potentially dangerous condition of the land will appreciate and avoid the risks,' making the likelihood of injury slight." *Id.* (quoting *Sollami*, 201 Ill. 2d at 17). In reviewing the third and fourth factors, the supreme court observed that "the consequences of imposing that burden on the City would go well beyond the instant sidewalk defect. The City has miles of sidewalk to maintain. The imposition of this burden is not justified given the open and obvious nature of the risk involved." *Id.* ¶ 37.

¶ 27 Similarly, in considering where the City owed the plaintiff a duty of care, the *Negron* court concluded that the burden against the City was significant.

"Because the distraction in this case was not reasonably foreseeable, the likelihood of injury from the open and obvious sidewalk defect was correspondingly low. Furthermore, the burden of guarding against such injury would be extremely high. The city has miles of sidewalk to maintain. Protecting pedestrians from random distracting noises on a city-wide basis would impose an unreasonable burden upon the city." *Negron*, 2016 IL App (1st) 143432, ¶ 26.

¶ 28 We agree with the conclusions in *Bruns* and *Negron* regarding the duty of care to plaintiff. As discussed in *Bruns*, the first two factors carry little weight where the condition is open and obvious as it is not reasonably foreseeable that one would fail to avoid encountering an open and obvious condition on the sidewalk. In regard to the third and fourth factors, we find the magnitude of the burden on the City to prevent any injury would be "extremely high" and nearly impossible to achieve. Accordingly, we hold that the City had no duty to protect plaintiff from

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the open and obvious sidewalk defect. Therefore, the trial court properly granted summary judgment in favor of the City.

¶ 29 Based on the foregoing reasons, we affirm the decision of the circuit court of Cook County.

¶ 30 Affirmed.

OCT 16, 2019

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MATTIE LOMAX,

Plaintiff-Appellant,

v.

CITY OF CHICAGO, a Municipal Corporation,

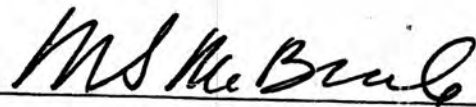
Defendant-Appellee.

No. 1-18-2132

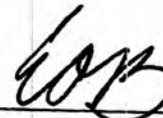
ORDER

This matter coming to be heard on plaintiff-appellant's *pro se* motion to recall the mandate, and being fully advised in the premises;

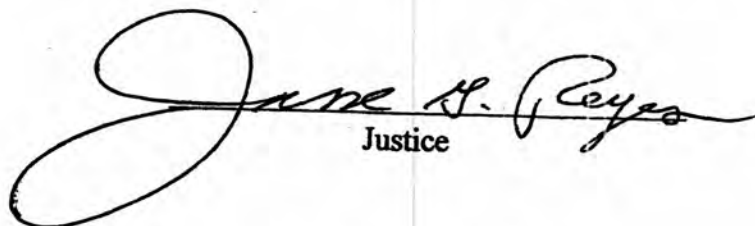
IT IS HEREBY ORDERED that this Motion is DENIED because this court is without jurisdiction to recall the mandate.



Justice



Justice



Justice

ORDER ENTERED

OCT 16 2019

APPELLATE COURT FIRST DISTRICT



Nov 13, 2019



CLERK'S OFFICE
APPELLATE COURT FIRST DISTRICT
STATE OF ILLINOIS
160 NORTH LA SALLE STREET, RM S1400
CHICAGO, ILLINOIS 60601

November 13, 2019

Honorable Dorothy Brown
Richard J. Daley Center
Room 1001
Chicago, IL 60602

RE: MATTIE LOMAX v. CITY OF CHICAGO
General No.: 1-18-2132
County: Cook County
Trial Court No: 17M1302539

FILED
2019 NOV 13 PM 4:02
CIVIL APPEALS DIVISION
CLERK'S OFFICE

Dear Honorable Brown:

We have been instructed to recall the original mandate issued to you on September 9, 2019, in the above entitled cause.

Kindly return the mandate to us at your earliest convenience.

Thomas D. Palella
Clerk of the Appellate Court

c: Corporation Counsel of Chicago
Mattie Lomax

Jan 13 2020

January

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 13th day of January, 2020.

Present: Anne M. Burke, Chief Justice

Justice Rita B. Garman
Justice P. Scott Neville, Jr.
Justice David K. Overstreet

Justice Mary Jane Theis
Justice Michael J. Burke
Justice Robert L. Carter

On the 29th day of January, 2020, the Supreme Court entered the following judgment:

No. 125425

Mattie Lomax,

Petitioner

v.

City of Chicago, a municipal corporation,

Respondent

Petition for Leave to
Appeal from
Appellate Court
First District
1-18-2132
17M1302539

The Court having considered the Petition for leave to appeal and being fully advised of the premises, the Petition for leave to appeal is DENIED.

As Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.



IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal
of said Court, this 3rd day of April, 2020.

Carolyn Taft Gosbell Clerk,
Supreme Court of the State of Illinois



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

Jan 20, 20

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

January 29, 2020

In re: Mattie Lomax, petitioner, v. City of Chicago, etc., respondent.
Leave to appeal, Appellate Court, First District.
125425

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 03/04/2020.

Very truly yours,

Carolyn Taft Gersbelle

Clerk of the Supreme Court

125425

March 04, 2020



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

January 29, 2020

In re: Mattie Lomax, petitioner, v. City of Chicago, etc., respondent.
Leave to appeal, Appellate Court, First District.
125425

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 03/04/2020.

Very truly yours,

Carolyn Toft Gosbell

Clerk of the Supreme Court

April 03, 2020



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CAROLYN TAFT GROSBOLL
Clerk of the Court

(217) 782-2035
TDD: (217) 524-8132

April 03, 2020

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

Mattie Lomax
7733 S. Kingston Ave.
Apt.2
Chicago, IL 60649

In re: Lomax v. City of Chicago
125425

Today the following order was entered in the captioned case:

Motion by Petitioner, *pro se*, for leave to file a motion for reconsideration of the order denying petition for leave to appeal. Denied.

Order entered by the Court.

This Court's mandate shall issue forthwith to the Appellate Court, First District.

Very truly yours,

Carolyn Taft Grosboll

Clerk of the Supreme Court

cc: Appellate Court, First District
City of Chicago Law Department
Margaret Mendenhall Casey

7/12/2021

July 8, 2021

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

MATTIE LOMAX,

Plaintiff,

v.

CITY OF CHICAGO,

Defendant.

No. 17 M1 302539

ORDER

THIS MATTER HAVING come before the Court on Plaintiff's Motion by Mattie Lomax for Petition for Rehearing, with due notice to the parties and the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

1. Motion by Mattie Lomax for Petition for Rehearing is denied. *THE TRIM COURT LACKS JURISDICTION.*

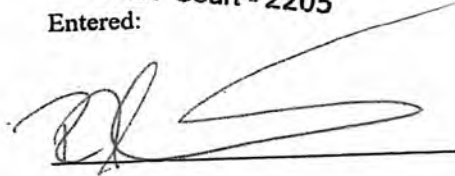
Judge Robert F. Harris

JUL 08 2021

Circuit Court - 2205

Entered:

DATED: July 8, 2021



Prepared by:

Meza/Ruether/Thomas
2 North LaSalle Street, Suite 350
Chicago, IL 60602
(312) 742-8416
Joseph.Thomas2@cityofchicago.org
Corporation.Counsel@cityofchicago.org
Attorney No. 90909

Feb 2, 22

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT**

MATTIE LOMAX,

Plaintiff,

v.

CITY OF CHICAGO, a Municipal Corporation,

Defendant.

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No. 2017 M1 302539

ORDER

This matter having come before this Court on the Plaintiff's Petition to the Reviewing Court/Take Notice, the City of Chicago being present. This Court being fully-advised, IT IS HEREBY ORDERED THAT:

1. The Court held this matter until 9:20 a.m. to allow Plaintiff time to appear via zoom.
2. The Plaintiff failed to appear by 9:20 a.m., though the matter was set for 9:00 a.m.
3. The Plaintiff's Petition is hereby stricken.

Judge

Date

Prepared by: Barbara Burke, Assistant Corporation Counsel
Attorney #90909
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Suite 350
Chicago, IL 60602
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Barbara.Burke@cityofchicago.org